WEST VIRGINIA CODE: §5A-3-33D

§5A-3-33d. Grounds for debarment.

(a) Grounds for debarment are:

(1) Conviction of an offense involving fraud or a felony offense related to obtaining or attempting to obtain a public contract or subcontract;

(2) Conviction of any federal or state antitrust statute relating to the submission of offers;

(3) Conviction of an offense involving embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property related to the performance of a contract;

(4) Conviction of a felony offense demonstrating a lack of business integrity or business honesty that affects the present responsibility of the vendor or subcontractor;

(5) Default on obligations owed to the state, including, but not limited to, obligations owed to the workers' compensation funds, as defined in §23-2C-1 et seq. of this code, and obligations under the West Virginia Unemployment Compensation Act and West Virginia state tax and revenue laws. For purposes of this subdivision, a vendor is in default when, after due notice, the vendor fails to submit a required payment, interest thereon, or penalty, and has not entered into a repayment agreement with the appropriate agency of the state or has entered into a repayment agreement but does not remain in compliance with its obligations under the repayment agreement. In the case of a vendor granted protection by order of a federal bankruptcy court or a vendor granted an exemption under any rule of the Bureau of Employment Programs or the Insurance Commission, the director may waive debarment under §5A-3-33f of this code: Provided, That in no event may debarment be waived with respect to any vendor who has not paid all current state obligations for at least the four most recent calendar quarters, excluding the current calendar quarter, or with respect to any vendor who is in default on a repayment agreement with an agency of the state;

(6) The vendor is not in good standing with a licensing board, in that the vendor is not licensed when licensure is required by the law of this state, or the vendor has been found to be in violation of an applicable licensing law after notice, opportunity to be heard, and other due process required by law;

(7) The vendor is an active and knowing participant in dividing or planning procurements to circumvent the $25,000 threshold requiring a sealed bid or otherwise avoiding the use of a sealed bid;

(8) Violation of the terms of a public contract or subcontract for:

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(A) Willful failure to substantially perform in accordance with the terms of one or more public contracts;

(B) Performance in violation of standards established by law or generally accepted standards of the trade or profession amounting to intentionally deficient or grossly negligent performance on one or more public contracts;

(C) Use of substandard materials on one or more public contracts or defects in construction in one or more public construction projects amounting to intentionally deficient or grossly negligent performance, even if discovery of the defect is subsequent to acceptance of a construction project and expiration of any warranty thereunder; or

(D) A repeated pattern or practice of failure to perform so serious and compelling as to justify debarment; or

(9) Any other cause of a serious and compelling nature amounting to knowing and willful misconduct of the vendor that demonstrates a wanton indifference to the interests of the public and that caused, or that had a substantial likelihood of causing, serious harm to the public.

(b) For the purposes of this section, the term “conviction” includes, but may not be limited to, the entering of a deferred prosecution agreement or a plea of guilty or nolo contendere, including pleading to a lesser or related offense in exchange for some form of prosecutorial leniency.

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