WEST VIRGINIA CODE: §5a-3-10A

§5A-3-10a. Prohibition for awarding contracts to vendors which owe a debt to the State or its political subdivisions.

(a) Unless the context clearly requires a different meaning, for the purposes of this section, the terms:

(1) "Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, amounts owed to the Workers' Compensation Funds as defined in §23-2C-1 *et seq*. of this code, penalty or other assessment or surcharge presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

(2) "Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions, and includes any person or entity that is in employer default.

(3) "Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in §23-2C-2 of this code, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

(4) "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function and whose jurisdiction is coextensive with one or more counties or municipalities.

(5) "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

(b) No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and:

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(1) The debt owed is an amount greater than $1,000 in the aggregate; or

(2) The debtor is in employer default.

(c) The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to Chapter 11 of this code, amount owed to the Workers' Compensation Funds as defined in §23-2C-1 *et seq*. of this code, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

(d) By submitting a bid or contract proposal or entering into a contract with the state or any of its political subdivisions, the vendor or prospective vendor is deemed to be affirming that the vendor or prospective vendor or a related party to the vendor or prospective vendor is not in employer default and does not owe any debt in an amount in excess of $1,000 or, if a debt is owed, that the provisions of subsection (c) of this section apply. This affirmation, combined with verification of State tax compliance, will satisfy the public contracting entities verification requirements contained in §5-22-1(j) of this code.

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