

OBJECTIVE This policy establishes the process and parameters for establishing a Debarment List. This policy applies to all Contractors.

Definitions **Contractor** - For the purpose of this policy, Contractor is any person or entity that provides services or goods to the Aviation Authority, for the Aviation Authority, on behalf of the Aviation Authority, or on Aviation Authority property, regardless of whether there is a contractual relationship with the Aviation Authority, and includes subcontractors and subconsultants of any tier, except as expressly precluded by Federal or State regulation or statute.

Debarment List – The list that is maintained by the Executive Director or designee and is referenced on the Aviation Authority's website, or otherwise provided to potential Contractors, that identifies the persons and entities that are prohibited from contracting with the Aviation Authority, working for the Aviation Authority in any capacity, or working on Aviation Authority property. The Aviation Authority will not consider any letter of intent, letter of interest, statement of qualifications, quote, proposal, or bid from any debarred Contractor. The Aviation Authority will disqualify any bid or proposal that includes a debarred Contractor and will not approve any list of subcontractors, subconsultants or staffing plan that includes a debarred Contractor.

Contract Performance Reviews After the completion or termination of every contract with the Aviation Authority or work performed on behalf of the Aviation Authority, Aviation Authority staff may recommend a performance rating on each Contractor to the appropriate Committee, as applicable under this policy. Contractors shall be provided written notice by e-mail and certified mail, return receipt requested. If a Contractor objects to its rating, it may submit a written response in writing (not e-mail) within 14 calendar days of receipt of the e-mail notice of the performance rating to the appropriate Committee. The Committee may, but is not obligated to, revise the rating after review of the materials provided. If a Contractor receives two or more poor ratings, the appropriate Committee may propose and determine debarment in accordance with this policy. In exceptional circumstances, a single poor rating, on cause shown, may support debarment.

Automatic Debarment Any Contractor that is included on the Excluded Parties List (as defined and maintained by the federal government), the State of Florida Convicted Vendors List, Suspended Vendors List, or Discriminatory Vendors List shall automatically be deemed included on the Debarment List.

Other Causes for Potential Debarment Other causes for potential debarment include:

1. Violation of antitrust laws, commission of fraud in connection with obtaining, attempting to obtain, or performing a public contract or subcontract of any tier;
2. Adjudication or conviction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating tax laws, or receiving stolen property;
3. Adjudication or conviction of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the responsibility of a Contractor;
4. Any act or omission that, in the reasonable judgment of the Aviation Authority, renders the Contractor incompetent, not responsible or not qualified, or that causes the Aviation Authority to have a reasonable concern for the security or safety of any individual or property (regardless of whether or not there has been a declaration of breach of contract or violation of policy), including, but not limited to:
 - a. Willful or repeated failure to perform in accordance with the terms of a contract or when proposed by the appropriate Committee as a result of poor performance reviews;
 - b. Violation of a contractual nondiscrimination clause;
 - c. Violation of any security procedure, policy or any security-related instruction by the Aviation Authority;
 - d. Violation of any safety law, regulation, ordinance, code, procedure, policy, safety-related instruction by the Aviation Authority, or any applicable safety plan (including a Contractors' safety plan or project-specific safety plan), which could cause serious injury or significant property damage;
 - e. Being debarred or suspended by any other public agency.
5. Violations of Aviation Authority policies, including all small business development policies;
6. A Contractor is currently in bankruptcy;
7. The Aviation Authority has terminated a contract with the Contractor, for cause.

Immediate Suspension for Safety or Security Violations When the Chief Operating Officer has determined that one serious safety or security violation (or successive minor violation) has occurred, the Aviation Authority may confiscate the airport issued access control identification media (badge(s)) of the individual perpetrator(s) and the relevant supervisory personnel, if applicable. In addition, if circumstances warrant, the Chief Operating Officer may request the appropriate Committee make a debarment determination as prescribed in this policy. No injury or property damage is required to determine a violation is serious.

Debarment Authority For automatic debarment and immediate suspension for safety or security violations, matters involving Contractors to include on the Debarment List will be determined by the appropriate Committee as follows:

- Concessions/Procurement Committee as authorized under Policy 120.01 including good and services purchased under Operational Procedure 450.04, General Procedures and Approval Authorizations;
- Construction Committee as authorized under Policy 120.02;
- Retirement Benefits Committee as authorized under Policy 120.08;
- Professional Services Committee as authorized under Policy 120.10 and for professional services as authorized under Policy 110.01, Executive Director.
- The Executive Director may appoint an ad-hoc committee for matters involving any Contractor.

Debarment Procedure (Notice) The procedure for automatic debarment, immediate suspension for safety and security violation(s) and all other proposed debarments, the Chief Operating Officer will send a notice of proposed debarment to the Contractor and any specifically named affiliates, by e-mail and certified mail, return receipt requested (or other appropriate means allowed by the contract).

The notice shall include the following information:

1. Debarment is being considered by the appropriate Committee on the date and time and at the place set forth in the notice;
2. The reasons or facts that support debarment in terms sufficient to put the Contractor on notice of the conduct or transaction(s) upon which it is based;
3. The cause(s) for proposing debarment (from the list of causes within this policy);

4. The Contractor may submit information and argument in writing (not e-mail) in opposition to the proposed debarment, within 14 calendar days after receipt of the e-mail notice (or as otherwise extended by the Chief Operating Officer), and that the failure to do so waives the Contractor's right to appeal; and
5. The appropriate Committee will review the information and determine whether there is cause for debarment and, if so, will determine the scope, duration, effective date, and whether a debarred Contractor may continue to perform a current contract. The standard of proof for any debarment determination shall be "clear and convincing" evidence, such that the appropriate Committee finds evidence demonstrating a high probability of a basis for debarment.
6. If a Contractor wishes to appeal the results of determinations made by the Committee, an appeal in writing (not e-mail) must be received by the Executive Director in his office at One Jeff Fuqua Boulevard, Main Terminal Building (or location as may be changed from time to time) within five (5) business days of the determination of the Committee, no later than 4:00 p.m. on the fifth business day. Failure to file a timely written appeal shall constitute a waiver of the right to appeal.

**Period of
Debarment**

Debarment shall be for a period commensurate with the seriousness of the cause(s). Generally, debarment should not exceed two (2) years. The appropriate Committee or the Executive Director may extend the debarment for an additional period, if it is determined that an extension is substantially justified to protect the Aviation Authority's interest. If debarment for an additional period is determined to be substantially justified, the Debarment Procedures shall be followed to extend the debarment.

At any time during the period of debarment, the appropriate Committee or the Executive Director may, but has no obligation to, reduce the period of debarment, upon a Contractor's request that is supported by documentation, for reasons such as :

1. Newly discovered material evidence;
2. Reversal of the conviction or civil judgment upon which the debarment was based;
3. Bona fide change in ownership or management;
4. Elimination of other causes for which the debarment was imposed.

**Scope of
Debarment
(Affiliates)**

Each debarment notice shall specify the scope of debarment, such as whether the debarment is for specific services or goods or for all contracts, and whether the debarment applies to a Contractor or individual(s), supervisor(s), manager(s), others or any combination thereof. In general, the following will be considered by the appropriate Committee (or Executive Director, when applicable):

1. The debarment may follow the individual, regardless of the entity that employs the individual.
2. Individual conduct may be imputed to a Contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Contractor, or with the Contractor's or affiliate's knowledge, approval, or acquiescence.
3. Conduct may also be imputed to any Contractor, who participated in, knew of, had reason to know of, or should have known about the conduct.
4. The conduct of one Contractor participating in a joint venture, subcontract, or similar arrangement may be imputed to other Contractors if the conduct occurred for or on behalf of the joint venture, subcontract, or similar arrangement, or with the knowledge, approval, or acquiescence of the other Contractor(s).
5. The acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

Notice of Decision

If the appropriate Committee decides to impose debarment, the appropriate Committee Chair shall send notice to the Contractor and any named affiliates involved by e-mail and certified mail, return receipt requested (or other appropriate means allowed by the contract) that:

1. Refers to the notice of proposed debarment;
2. Specifies the reasons and cause for debarment;
3. States the period of debarment, including effective dates;
4. Identifies any individuals and affiliates that are included within the scope of the debarment; and
5. States whether completion of any current contract or subcontract will be permitted.

Organizational Policy:
Debarment of Contractors

Section 130.04
Administration

Remedies

Nothing herein shall limit the Aviation Authority from pursuing other legal or contractual rights or remedies against a debarred Contractor or making a determination of non-responsibility, at any time, including but not limited to during the time any debarment is pending.

Appeals

The appeal process for the appropriate Committee remains applicable, except that in addition to granting or denying an appeal, the Executive Director may also reduce the time or scope of debarment or otherwise modify the Committee action as he or she deems appropriate. The Executive Director in his or her sole discretion, may also extend the time or scope of debarment in substantially extreme circumstances to protect the Aviation Authority's interest.

See Also

Policy 110.01 Executive Director
Policy 120.01 Concessions/Procurement Committee
Policy 120.02 Construction Committee
Policy 120.08 Retirement Benefits Committee
Policy 120.10 Professional Services Committee
Policy 730.01 Access and Operations in the SIDA/AOA
Policy 730.02 Access and Operations on the Movement/Safety Areas

**APPROVAL AND
UPDATE HISTORY**

Authority Board: October 19, 2016
Executive Director:



Maria Irizarry
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