

## ORDINANCE NO.

Section 31. That Chapter 1.06 of the Tacoma Municipal Code is hereby amended by the addition thereto of a new section, to be known and designated as Section 1.06.277, “Disqualification of bidders, contractors, or subcontractors,” to read as follows:

**1.06.277 Disqualification of bidders, contractors, or subcontractors.**

A. Pursuant to the City Charter and this chapter, the City attempts only to solicit offers from, award contracts to, and consent to subcontracts with responsible contractors. In the event that an illegal, improper, or unethical practice has occurred, debarment and suspension are discretionary actions that are appropriate means to effectuate the City’s goal.

B. Vendors, contractors, subcontractors, or principals (contractor) of a business that have been debarred or suspended by the City are excluded from entering contracts with the City, and the City shall not solicit offers from, award contracts to, or consent to subcontracts with debarred or suspended contractors and the principals involved; provided, however, the City Manager or Director of Utilities, as applicable, may waive this requirement if it is determined that there is a compelling reason for such action, and the Council/Board, as appropriate, is informed of such action.

C. Causes for Debarment. A contractor may be debarred for any of the following reasons:

1. The commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;
2. The commission of embezzlement, theft, forgery, bribery, falsification of records, perjury, or receiving stolen property;
3. The commission of a serious offense that indicates a lack of business integrity or business honesty that may seriously affect the present responsibility of a contractor;
4. The violation of the terms of any public contract or subcontract so as to result in serious and direct consequences for the public entity letting the contract, including, but not limited to, a history of a failure to perform or unsatisfactory performance of, one or more contracts; and
5. A violation of the City’s Code of Ethics, Chapter 1.46 TMC, or other cause so serious or compelling in nature that it affects the present responsibility of the contractor.

D. Procedures.

1. Investigation and notice of intent to debar or suspend. The Finance Director, or his or her designee, may initiate an investigation and, if warranted, provide notice to a contractor of the City's intent to debar or suspend said person and/or entity from bidding on and contracting with the City. The notice shall provide that the debarment becomes effective within ten business days unless the person or entity appeals said action to the Hearing Examiner.

2. The Hearing Examiner Rules of Procedure for Hearings, Chapter 1.23 TMC, shall be ordered if a preponderance of credible evidence indicates that the contractor has committed any act(s) set forth in subsection C above.

E. Period of Debarment. Debarment shall be for a period commensurate with the gravity of the causes therefor, provided that in no instance shall debarment extend for a period longer than five years unless the contractor has failed to satisfy any condition of suspension or implement any required corrective action.

F. Appeal. Appeals of the decisions of the Hearing Examiner shall be made within 30 days by appropriate legal action filed in the Pierce County Superior Court.

Passed \_\_\_\_\_

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Mayor

Attest:

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City Clerk

Approved as to form and legality:

\_\_\_\_\_  
Assistant City Attorney