

5501:2-3-10

Revocation and debarment.

In accordance with section 5525.03 of the Revised Code, the director may refuse to issue a certificate of qualification, ~~or~~ may revoke a certificate of qualification, ~~or~~ ~~and~~ debar a certificate holder when the applicant or certificate holder has been found to be responsible for any one of the following:

- (A) The company has been defaulted by the director on a department project;
- (B) The company or its principals, including its key personnel, have been debarred or suspended by the United States government or other states or other Ohio state agencies from bidding on or working on their projects;
- (C) The company or its principals, including its key personnel, have been convicted of crimes involving fraud that includes but is not limited to bribery, falsification of documents, theft and any offense that directly reflects on the integrity of the business;
- (D) The company files for protection from its creditors in the United States bankruptcy court;
- (E) The company or its principals, including its key personnel, deliberately submitted false or misleading information in connection with the application for a certificate of qualification or in connection with a bid for a contract or in connection with the performance of a contract;
- (F) The company or its principals, including its key personnel, have been found to have colluded with other bidders for purposes of obtaining or dividing contracts;
- (G) The company or its principals, including its key personnel, have been found to have violated its disadvantaged or minority prime contract or subcontract requirements;
- (H) The company or its principals, including its key personnel, have failed to pay prevailing wages, fringes and benefits to its employees;
- (I) The company has received a multiplier computed in accordance with rule 5501:2-3-03 of the Administrative Code of less than 5.0 for two consecutive years when contractor evaluations have been performed.

At the time of denial of a certification or revocation of a certification, the director shall provide written notice to the applicant or certificate holder of the grounds for denial or revocation of a certification. Said grounds shall be consistent with items (A) through (H) above.

The applicant or certificate holder may appeal the determination of the denial to the Prequalification Review Board by following the appeal process under 5501:2-3-09. The director may refuse to allow an applicant or certificate holder the opportunity to bid on a construction project during the pendency of the appeal.

Prior to a ~~revocation and~~ debarment action, the director shall provide written notice to the applicant or certificate holder of the grounds for ~~denial or revocation and~~ debarment and afford the applicant or certificate holder an opportunity for a hearing before a hearing officer selected by the director.

If the applicant or certificate holder desires a hearing then the applicant or certificate holder must request the hearing in writing within thirty days of the mailing of the notice for ~~revocation and~~ debarment.

The request for the hearing must be sent to the director with a copy to the administrator of the office of contracts. The director shall schedule the hearing within fifteen days of receiving the request for a hearing. The hearing date may be continued by the director at his request or the request of the applicant or certificate holder.

In the event an appeal is requested, the hearing officer will provide a reasonable opportunity for the appellant to present its evidence as to why its certificate should be issued or reinstated and the company or its individuals not be debarred. The hearing shall be an opportunity for the hearing officer to determine de novo whether the appellant should hold a certificate of qualification. The hearing officer may receive from the appellant and from the department documents and other evidence he rules to be relevant to the proceedings. A stenographic transcript of the oral testimony shall be made.

The appellant and the department may be represented by counsel, however, such representation is not required. Any subpoenas for the hearing shall be requested from the hearing officer for issuance by the department.

The hearing officer shall, within seven days of the completion of the hearing, submit a written report to the director setting forth his findings of fact and conclusions of law. The report shall include a recommendation of action to be taken by the director. A copy of this written report shall, at the time it is submitted to the director, be forwarded by certified mail to the appellant, or its representative of record, and to the department. Both the appellant and the department may file with the director written objections to the hearing officer's report within ten days of receipt of the report. A copy of these objections shall be sent to the opposing party by certified mail, return receipt requested, at the same time they are sent to the director. The opposing party may submit to the director a written response to the objections within seven days of receipt of the objections. The director may refer the matter back to the hearing

officer for consideration of the objections and responses. The hearing officer shall consider these objections and submit a supplementary report and recommendation to the director within five days after such a referral. The director shall not take any action approving, modifying, or rejecting the recommendation of the hearing officer or otherwise determine the eligibility of the appellant until after the applicable time periods provided in this paragraph unless it is modified by agreement of the applicant and the department.

The director will render a decision within fourteen days after the expiration of the time for submission from the appellant, the department and the hearing officer. The decision shall be sent ~~to the office of contracts and sent~~ by certified mail to the appellant or its representative of record.

The appellant of a debarment may appeal an adverse determination by the director as provided for in section 5525.03 of the Revised Code.

The record will be preserved and maintained in the custody of the director following the decision of the director. Copies of the record will be made available at cost.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03

Statutory Authority: null

Rule Amplifies: null