

ORDINANCE NO. 182548

An ordinance amending the Los Angeles Administrative Code to add a regulation of the City Ethics Commission concerning contract bidder debarment mitigating factors and procedure.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Chapter 6 shall be added to Division 24 of the Los Angeles Administrative Code to read as follows:

CHAPTER 6

DEBARMENT

Section

- 24.61 Violations Requiring Debarment.
- 24.62 Mitigating Circumstances.
- 24.63 Procedural Requirements.

Sec. 24.61. Violations Requiring Debarment.

Charter Section 470(c)(12) and Municipal Code Sections 49.7.35 and 49.7.36 limit campaign contributions and fundraising by specific persons associated with certain City bids and contracts. A person found to have violated one or more of those provisions may not bid on, or be considered for, any City contract, extension or amendment, unless the members of the Ethics Commission determine that mitigating circumstances exist. Debarment lasts one year for the first violation, two years for a second violation, three years for a third violation, and four years for all subsequent violations.

Sec. 24.62. Mitigating Circumstances.

(a) The members of the Ethics Commission must determine whether mitigating circumstances exist whenever a violation of Charter Section 470(c)(12) or Municipal Code Sections 49.7.35 or 49.7.36 is found to have occurred.

(b) The Ethics Commission will consider the following when determining whether mitigating circumstances exist:

(1) The nature and extent of the violation, which may include factors such as the following:

- (A) The number of counts;
- (B) Whether the violation was egregious;

- (C) Whether the awarding authority notified the respondent of the legal requirements;
 - (D) Whether the violation was deliberate or coordinated; or
 - (E) Whether the respondent attempted to cure the violation.
- (2) The extent to which the respondent cooperated with the Ethics Commission, which may include factors such as the following:
- (A) Whether the respondent self-reported the violation to the Ethics Commission;
 - (B) Whether the respondent offered a full admission;
 - (C) The timeliness and extent of the respondent's cooperation with the audit and investigation of the violation that triggers debarment;
 - (D) The timeliness and extent of the respondent's cooperation with the audit and investigation of any other violation; or
 - (E) The prompt payment of fines recommended by staff or issued by the Commission.
- (3) The extent to which debarment will affect the City or those receiving City services, which may include factors such as the following:
- (A) The effect of debarment on City services;
 - (B) The effect of debarment on the City's finances;
 - (C) The effect of debarment on City projects and contracts; or
 - (D) The effect of debarment on the City's ability to fulfill any legal mandates.
- (4) The respondent's enforcement history with the Ethics Commission for the same or different types of violations.
- (5) Circumstances unique to the respondent or the contract.
- (6) The overall interests of justice.

Sec. 24.63. Procedural Requirements.

(a) The determination regarding whether mitigating circumstances exist is final and must be made at a public meeting.

(b) The Ethics Commission staff must notify all City agencies, departments, boards, and offices at least 21 days before a determination regarding mitigating circumstances is going to be made.

(c) The staff must make written recommendations to the members of the Ethics Commission regarding whether mitigating circumstances exist and provide a copy of the recommendations to the respondent at least 21 days before the determination is going to be made.

(d) The respondent may appear at the public meeting, with or without counsel, and may respond both verbally and in writing to the staff recommendations. Failure to appear shall be deemed acceptance of the Commission's determination and shall exhaust any further administrative remedies

(e) The staff must issue notice of the determination regarding mitigating circumstances within 10 business days after the determination is made. The debarment notice must be provided to all City agencies, departments, boards, and offices and must be posted on the Ethics Commission's web site.

(f) If the members of the Ethics Commission determine that mitigating circumstances do not exist, an awarding authority that has an existing contract with the respondent must make a written determination regarding whether it is in the City's best interests to terminate that contract. The determination must be made within 60 days of receiving the debarment notice.

(g) Once notice in 24.63(b) is made, no action on any bid involving the respondent may be taken until the members of the Ethics Commission make a determination. If the members of the Ethics Commission determine that mitigating circumstances do not exist, the respondent's status as a bidder is terminated as of the date the staff provides debarment notice to the awarding authority.

(h) If the respondent is a City contractor, subcontractor or underwriter, that status is not altered, and work and payments under an affected City contract must continue until all of the following have occurred:

(1) The members of the Ethics Commission have determined that mitigating circumstances do not exist;

(2) The staff has issued the debarment notice; and

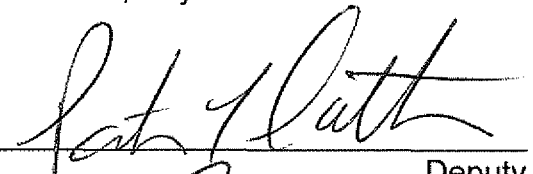
(3) The awarding authority has made a written determination under Municipal Code Section 49.7.35(C) that it is in the City's best interests to terminate the contract.

(i) The respondent may waive any of the respondent's procedural rights.


Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of MAY 21 2013.

JUNE LAGMAY, City Clerk

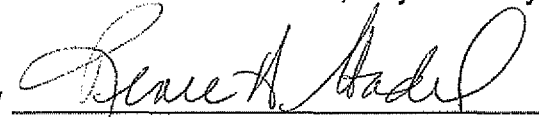
By  Deputy

Approved MAY 24 2013

 Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 
RENEE A. STADEL
Deputy City Attorney

Date May 7, 2013

File No. 13-0482

DECLARATION OF POSTING ORDINANCE

I, MARIA VIZCARRA, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 182548 – Amending the Los Angeles Administrative Code to add a regulation of the City Ethics Commission concerning contract bidder debarment mitigating factors and procedure - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on **May 21, 2013**, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on **May 29, 2013** I posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Copies of said ordinance were posted conspicuously beginning on **May 29, 2013** and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this **29th** day of **May, 2013** at Los Angeles, California.



Maria Vizcarra, Deputy City Clerk