

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 133

Senators Hicks-Hudson, DeMora

A BILL

To amend sections 125.25, 153.02, and 5513.06 of 1
the Revised Code regarding the debarment of 2
state vendors. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 125.25, 153.02, and 5513.06 of 4
the Revised Code be amended to read as follows: 5

Sec. 125.25. (A) The director of administrative services 6
may debar a vendor from consideration for contract awards upon a 7
finding based upon a reasonable belief that the vendor has done 8
any of the following: 9

(1) Abused the selection process by repeatedly withdrawing 10
bids or proposals before purchase orders or contracts are issued 11
or failing to accept orders based upon firm bids; 12

(2) Failed to substantially perform a contract according 13
to its terms, conditions, and specifications within specified 14
time limits; 15

(3) Failed to cooperate in monitoring contract performance 16
by refusing to provide information or documents required in a 17
contract, failed to respond to complaints to the vendor, or 18

accumulated repeated justified complaints regarding performance 19
of a contract; 20

~~(4) Attempted to influence a public employee to breach 21
ethical conduct standards or to influence a contract award; 22~~

~~(5) Colluded to restrain competition by any means; 23~~

~~(6) Been convicted of a criminal offense related to the 24
application for or performance of any public or private 25
contract, including, but not limited to, embezzlement, theft, 26
forgery, bribery, falsification or destruction of records, 27
receiving stolen property, and any other offense that directly 28
reflects on the vendor's business integrity; 29~~

~~(7) Been convicted under state or federal antitrust laws; 30~~

~~(8) Deliberately or willfully submitted false or 31
misleading information in connection with the application for or 32
performance of a public contract; 33~~

~~(9) Violated any other responsible business practice or 34
performed in an unsatisfactory manner as determined by the 35
director; 36~~

~~(10)-(5) Through the default of a contract or through 37
other means had a determination of unresolved finding for 38
recovery by the auditor of state under section 9.24 of the 39
Revised Code; 40~~

~~(11)-(6) Acted in such a manner as to be debarred from 41
participating in a contract with any governmental agency. 42~~

(B) The director of administrative services shall debar a 43
vendor from consideration for contract awards upon a finding 44
based upon a reasonable belief that the vendor has done any of 45
the following: 46

<u>(1) Attempted to influence a public employee to breach</u>	47
<u>ethical conduct standards or to influence a contract award;</u>	48
<u>(2) Colluded to restrain competition by any means;</u>	49
<u>(3) Been convicted under, or pleaded guilty to a violation</u>	50
<u>of, state or federal antitrust laws;</u>	51
<u>(4) Been convicted under, or pleaded guilty to a violation</u>	52
<u>of, state or federal corruption laws, including a criminal</u>	53
<u>offense related to bribery;</u>	54
<u>(5) Been convicted, or pleaded guilty to a violation, of a</u>	55
<u>criminal offense related to the application for or performance</u>	56
<u>of any public or private contract, including, but not limited</u>	57
<u>to, embezzlement, theft, forgery, falsification or destruction</u>	58
<u>of records, receiving stolen property, and any other offense</u>	59
<u>that directly reflects on the vendor's business integrity;</u>	60
<u>(6) Deliberately or willfully submitted false or</u>	61
<u>misleading information in connection with the application for or</u>	62
<u>performance of a public contract;</u>	63
<u>(7) Admitted to a violation of section 2923.32 of the</u>	64
<u>Revised Code in any civil proceeding or in a settlement</u>	65
<u>agreement related to the application for or performance of any</u>	66
<u>public or private contract, including, but not limited to,</u>	67
<u>embezzlement, theft, forgery, falsification or destruction of</u>	68
<u>records, receiving stolen property, and any other offense that</u>	69
<u>directly reflects on the vendor's business integrity.</u>	70
<u>(C) When the director reasonably believes that grounds for</u>	71
<u>debarment exist, the director shall send the vendor a notice of</u>	72
<u>proposed debarment indicating the grounds for the proposed</u>	73
<u>debarment and the procedure for requesting a hearing on the</u>	74
<u>proposed debarment. The hearing shall be conducted in accordance</u>	75

with Chapter 119. of the Revised Code. If the vendor does not 76
respond with a request for a hearing in the manner specified in 77
Chapter 119. of the Revised Code, the director shall issue the 78
debarment decision without a hearing and shall notify the vendor 79
of the decision by certified mail, return receipt requested. 80

~~(C)~~ (D) The director shall determine the length of the 81
debarment period ~~and, which shall be for not less than one year~~ 82
~~and not more than three years. The director may rescind the a~~ 83
debarment administered under division (A) of this section at any 84
time upon notification to the vendor. During the period of 85
debarment, the vendor is not eligible to participate in any 86
state contract. After the debarment period expires, the vendor 87
may be eligible to be awarded contracts by state agencies if the 88
vendor is not otherwise debarred. 89

~~(D)~~ (E) The director, through the office of procurement 90
services, shall maintain a list of all vendors currently 91
debarred under this section. 92

Sec. 153.02. (A) The executive director of the Ohio 93
facilities construction commission⁷ may debar a contractor from 94
contract awards for public improvements as referred to in 95
section 153.01 of the Revised Code, or for projects as defined 96
in section 3318.01 of the Revised Code, upon proof that the 97
contractor has done any of the following: 98

(1) Defaulted on a contract requiring the execution of a 99
takeover agreement as set forth in division (B) of section 100
153.17 of the Revised Code; 101

(2) Knowingly failed during the course of a contract to 102
maintain the coverage required by the bureau of workers' 103
compensation; 104

(3) Knowingly failed during the course of a contract to 105
maintain the contractor's drug-free workplace program as 106
required by the contract; 107

(4) Knowingly failed during the course of a contract to 108
maintain insurance required by the contract or otherwise by law, 109
resulting in a substantial loss to the owner, as owner is 110
referred to in section 153.01 of the Revised Code, or to the 111
commission and school district board, as provided in division 112
(F) of section 3318.08 of the Revised Code; 113

(5) Misrepresented the firm's qualifications in the 114
selection process set forth in sections 153.65 to 153.71 or 115
section 3318.10 of the Revised Code; 116

~~(6) Been convicted of a criminal offense related to the 117
application for or performance of any public or private 118
contract, including, but not limited to, embezzlement, theft, 119
forgery, bribery, falsification or destruction of records, 120
receiving stolen property, and any other offense that directly 121
reflects on the contractor's business integrity; 122~~

~~(7) Been convicted of a criminal offense under state or 123
federal antitrust laws; 124~~

~~(8) Deliberately or willfully submitted false or 125
misleading information in connection with the application for or 126
performance of a public contract; 127~~

~~(9) Been debarred from bidding on or participating in a 128
contract with any state or federal agency. 129~~

(B) The executive director of the Ohio facilities 130
construction commission shall debar a contractor from contract 131
awards for public improvements as referred to in section 153.01 132
of the Revised Code, or for projects as defined in section 133

<u>3318.01 of the Revised Code, upon proof that the contractor has</u>	134
<u>done any of the following:</u>	135
<u>(1) Attempted to influence a public employee to breach</u>	136
<u>ethical conduct standards or to influence a contract award;</u>	137
<u>(2) Colluded to restrain competition by any means;</u>	138
<u>(3) Been convicted of, or pleaded guilty to a charge of, a</u>	139
<u>criminal offense under state or federal antitrust laws;</u>	140
<u>(4) Been convicted under, or pleaded guilty to a violation</u>	141
<u>of, state or federal corruption laws, including a criminal</u>	142
<u>offense related to bribery;</u>	143
<u>(5) Been convicted, or pleaded guilty to a violation, of a</u>	144
<u>criminal offense related to the application for or performance</u>	145
<u>of any public or private contract, including, but not limited</u>	146
<u>to, embezzlement, theft, forgery, falsification or destruction</u>	147
<u>of records, receiving stolen property, and any other offense</u>	148
<u>that directly reflects on the contractor's business integrity;</u>	149
<u>(6) Deliberately or willfully submitted false or</u>	150
<u>misleading information in connection with the application for or</u>	151
<u>performance of a public contract;</u>	152
<u>(7) Admitted to a violation of section 2923.32 of the</u>	153
<u>Revised Code in any civil proceeding or in a settlement</u>	154
<u>agreement related to the application for or performance of any</u>	155
<u>public or private contract, including, but not limited to,</u>	156
<u>embezzlement, theft, forgery, falsification or destruction of</u>	157
<u>records, receiving stolen property, and any other offense that</u>	158
<u>directly reflects on the vendor's business integrity.</u>	159
<u>(C) When the executive director debars a contractor that</u>	160
<u>is a partnership, association, or corporation, the executive</u>	161

director also may debar any partner of the partnership or any 162
officer or director of the association or corporation, as 163
applicable. 164

~~(C)~~ (D) When the executive director reasonably believes 165
that grounds for debarment exist, the executive director shall 166
send the contractor a notice of proposed debarment indicating 167
the grounds for the proposed debarment and the procedure for 168
requesting a hearing on the proposed debarment. The hearing 169
shall be conducted in accordance with Chapter 119. of the 170
Revised Code. If the contractor does not respond with a request 171
for a hearing in the manner specified in Chapter 119. of the 172
Revised Code, the executive director shall issue the debarment 173
decision without a hearing and shall notify the contractor of 174
the decision by certified mail, return receipt requested. 175

~~(D)~~ (E) The executive director shall determine the length 176
of the debarment period ~~and~~, which shall be for not less than 177
one year and not more than three years. The executive director 178
may rescind the a debarment administered under division (A) of 179
this section at any time upon notification to the contractor. 180
During the period of debarment, the contractor is not eligible 181
to bid for or participate in any contract for a public 182
improvement as referred to in section 153.01 of the Revised Code 183
or for a project as defined in section 3318.01 of the Revised 184
Code. After the debarment period expires, the contractor may be 185
eligible to bid for and participate in such contracts if the 186
vendor is not otherwise debarred. 187

~~(E)~~ (F) The executive director shall maintain a list of 188
all contractors currently debarred under this section. Any 189
governmental entity awarding a contract for construction of a 190
public improvement or project may use a contractor's presence on 191

the debarment list to determine whether a contractor is 192
responsible or best under section 9.312 or any other section of 193
the Revised Code in the award of a contract. 194

~~(F)~~ (G) As used in this section, "contractor" means a 195
construction contracting business, a subcontractor of a 196
construction contracting business, a supplier of materials, or a 197
manufacturer of materials. 198

Sec. 5513.06. (A) The director of transportation may debar 199
a vendor from consideration for contract awards upon a finding 200
based upon a reasonable belief that the vendor has done any of 201
the following: 202

(1) Abused the solicitation process by repeatedly 203
withdrawing bids before purchase orders or contracts are issued 204
or failing to accept orders based upon firm bids; 205

(2) Failed to substantially perform a contract according 206
to its terms, conditions, and specifications within specified 207
time limits; 208

(3) Failed to cooperate in monitoring contract performance 209
by refusing to provide information or documents required in a 210
contract, failed to respond and correct matters related to 211
complaints to the vendor, or accumulated repeated justified 212
complaints regarding performance of a contract; 213

(4) ~~Attempted to influence a public employee to breach~~ 214
~~ethical conduct standards;~~ 215

~~(5) Colluded with other bidders to restrain competition by~~ 216
~~any means;~~ 217

~~(6) Been convicted of a criminal offense related to the~~ 218
~~application for or performance of any public or private~~ 219

contract, including, but not limited to, embezzlement, theft,	220
forgery, bribery, falsification or destruction of records,	221
receiving stolen property, and any other offense that directly	222
reflects on the vendor's business integrity;	223
(7) Been convicted under state or federal antitrust laws;	224
(8) Deliberately or willfully submitted false or	225
misleading information in connection with the application for or	226
performance of a public contract;	227
(9) Has been debarred by a state agency, another state, or	228
by any agency or department of the federal government;	229
(10) (5) Violated any other responsible business practice	230
or performed in an unsatisfactory manner as determined by the	231
director.	232
<u>(B) The director of transportation shall debar a vendor</u>	233
<u>from consideration for contract awards upon a finding based upon</u>	234
<u>a reasonable belief that the vendor has done any of the</u>	235
<u>following:</u>	236
<u>(1) Attempted to influence a public employee to breach</u>	237
<u>ethical conduct standards;</u>	238
<u>(2) Colluded with other bidders to restrain competition by</u>	239
<u>any means;</u>	240
<u>(3) Been convicted under, or pleaded guilty to a violation</u>	241
<u>of, state or federal antitrust laws;</u>	242
<u>(4) Been convicted under, or pleaded guilty to a violation</u>	243
<u>of, state or federal corruption laws, including a criminal</u>	244
<u>offense related to bribery;</u>	245
<u>(5) Been convicted, or pleaded guilty to a violation, of a</u>	246

criminal offense related to the application for or performance 247
of any public or private contract, including, but not limited 248
to, embezzlement, theft, forgery, falsification or destruction 249
of records, receiving stolen property, and any other offense 250
that directly reflects on the vendor's business integrity; 251

(6) Deliberately or willfully submitted false or 252
misleading information in connection with the application for or 253
performance of a public contract; 254

(7) Admitted to a violation of section 2923.32 of the 255
Revised Code in any civil proceeding or in a settlement 256
agreement related to the application for or performance of any 257
public or private contract, including, but not limited to, 258
embezzlement, theft, forgery, falsification or destruction of 259
records, receiving stolen property, and any other offense that 260
directly reflects on the vendor's business integrity. 261

(C) When the director reasonably believes that grounds for 262
debarment exist, the director shall send the vendor a notice of 263
proposed debarment. If the vendor is a partnership, association, 264
or corporation, the director also may debar from consideration 265
for contract awards any partner of the partnership, or the 266
officers and directors of the association or corporation, being 267
debarred. When the director reasonably believes that grounds for 268
debarment exist, the director shall send the individual involved 269
a notice of proposed debarment. A notice of proposed debarment 270
shall indicate the grounds for the debarment of the vendor or 271
individual and the procedure for requesting a hearing. The 272
notice and hearing shall be in accordance with Chapter 119. of 273
the Revised Code. If the vendor or individual does not respond 274
with a request for a hearing in the manner specified in Chapter 275
119. of the Revised Code, the director shall issue the debarment 276

decision without a hearing and shall notify the vendor or 277
individual of the decision by certified mail, return receipt 278
requested. ~~The~~ 279

~~debarment period may be of any length determined by the~~ 280
~~director and the~~ (D) The director shall determine the length of 281
the debarment period, which shall be for not less than one year 282
and not more than three years. The director may modify or 283
rescind the a debarment administered under division (A) of this 284
section at any time. During the period of debarment, the 285
director shall not include on a bidder list or consider for a 286
contract award any partnership, association, or corporation 287
affiliated with a debarred individual. After the debarment 288
period expires, the vendor or individual, and any partnership, 289
association, or corporation affiliated with the individual, may 290
reapply for inclusion on bidder lists through the regular 291
application process if such entity or individual is not 292
otherwise debarred. 293

Section 2. That existing sections 125.25, 153.02, and 294
5513.06 of the Revised Code are hereby repealed. 295