

**As Introduced**

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

**S. B. No. 133**

**Senators Hicks-Hudson, DeMora**

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**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 commission<sup>7</sup> 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 maintain the contractor's drug-free workplace program as required by the contract;

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

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

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

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

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

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

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

<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

<del>contract, including, but not limited to, embezzlement, theft,</del>	220
<del>forgery, bribery, falsification or destruction of records,</del>	221
<del>receiving stolen property, and any other offense that directly</del>	222
<del>reflects on the vendor's business integrity;</del>	223
<del>(7) Been convicted under state or federal antitrust laws;</del>	224
<del>(8) Deliberately or willfully submitted false or</del>	225
<del>misleading information in connection with the application for or</del>	226
<del>performance of a public contract;</del>	227
<del>(9) Has been debarred by a state agency, another state, or</del>	228
<del>by any agency or department of the federal government;</del>	229
<del>(10) (5) Violated any other responsible business practice</del>	230
<del>or performed in an unsatisfactory manner as determined by the</del>	231
<del>director.</del>	232
(B) <u>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