

**JACKSONVILLE TRANSPORTATION AUTHORITY**

**DEBARMENT AND SUSPENSION RULE  
(RULE NO.003)**

**DATE OF ADOPTION: August 27, 2009**

**LAST REVISED: August 27, 2009**

## **DEBARMENT AND SUSPENSION**

### **I. Purpose and Scope.**

(a) Purpose. The purpose of this rule is to protect the public interest by ensuring the integrity of JTA programs by conducting business only with responsible persons. This rule provides the authority for the JTA to determine, after notice and a hearing, whether to suspend or debar a person from consideration for award of contracts where there is evidence that such person has engaged in conduct that is deemed contrary to the public interest such that a party should be suspended or debarred.

(b) Scope. An exclusion from consideration for award of contracts is a serious action that should only be taken to protect the public interest. The JTA shall use this Debarment and Suspension Rule to exclude from award of its contracts persons who are not presently responsible to perform work in the public interest.

**II. Definition.** The term “person” as used in this rule means an individual, corporation, joint venturer, partnership, limited liability company, or any other form of business entity, or an agency of government.

### **III. Debarment and Suspension Procedures.**

(a) The JTA may impose suspension as a temporary status of ineligibility for consideration for award of contracts, pending completion of an investigation or legal proceedings. In order to impose suspension, the JTA must have adequate evidence that there may be a cause for debarment of a person; and must conclude that immediate action is necessary to protect the JTA or public interest. The JTA will ordinarily impose a suspension first, and then will promptly notify the suspended person in writing, giving the person an opportunity to contest the suspension and have it lifted. The JTA shall suspend a person from consideration for award of contracts if there is probable cause for debarment as provided in Section IV of this rule. The suspension shall not be for a period exceeding three (3) months. A determination to suspend a person under this rule shall be made by the Executive Director in writing, which shall set forth the suspended person’s right to a hearing pursuant to the JTA Hearings Rule to contest such suspension.

(b) The JTA may impose debarment for a specified period as a final determination that a person is not presently responsible, following the giving of written notice to the affected person(s) of the intended action and an opportunity to contest the proposed debarment at a hearing called for such purpose as set forth herein. In order to impose debarment, the JTA must conclude, based on a preponderance of the evidence, that the person has engaged in conduct that warrants debarment as provided herein.

(c) Notice of Decision. The Executive Director shall issue a written decision to debar a person. The decision shall state the reason for the action taken and shall inform the debarred person of such person's rights of appeal or judicial remedy. A copy of the decision for the debarment shall be mailed or otherwise furnished immediately to the debarred person, and any other party intervening, via certified mail, return receipt requested, and via U.S. Mail or

facsimile, stating the reason for and the proposed period of debarment. As part of the notice of debarment, the Executive Director shall advise the person that, if, within thirty (30) calendar days after the date of the notice, such person fails to provide the Executive Director with a written notice of protest that states, in detail, the specific grounds on which the protest is based, then the action contained in the notice of debarment or suspension shall become final without further notice, and shall represent final administrative action.

(d) After thirty (30) days from the date of written notice to the person involved or within twenty (20) days of an administrative hearing conducted in accordance with the JTA Hearings Rule, should such hearing be requested, and after consultation with its General Counsel, the JTA shall debar (or make final a decision to suspend) a person for cause from consideration for award of future contract, for a specified period of time. The debarment shall be for a period commensurate with the seriousness of the cause(s), and for not more than three (3) years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(e) An administrative hearing shall be conducted in accordance with the provisions of the JTA Hearings Rule.

**IV. Cause for Debarment.** The causes for debarment include the following:

(a) Conviction of or civil judgment for:

(i) Commission of fraud or a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(ii) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;

(iii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or

(iv) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the person's present contractual responsibility.

(b) Violation of contract provisions below:

(i) Failure without good cause to perform in accordance with specifications or within the time limit provided in the contract, including habitual minor defaults;

(ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts clearly beyond the control of the contractor shall not be considered to be a basis for debarment;

(iii) Falsification of contract records, statements, invoices, certifications of other material submitted or maintained in accordance with contract requirements; or

(iv) Failure to correct contract performance deficiencies brought to the person's attention in a timely manner during the contract warranty period or such other period as required by law.

(c) Refutation of an offer by failure to provide bonds, insurance or other required certificates within the time period set forth in contract documents.

(d) Refusal to accept a purchase order, agreement, or contract, or to perform thereon provided such order was issued timely and in conformance with the offer received.

(e) Presence of principals or corporate officers in the business of concern who were principals within another business at the time when the other business was suspended within the last three years under the provisions of this subsection.

(f) Violation of the ethical standards for public business as set forth in Florida Statutes.

(g) Unilateral withdrawal of a bid before one hundred eighty (180) days have elapsed from the date of bid opening or a lesser time specified in the invitation to bid.

(h) Any of the following causes:

(i) A debarment by any State or Federal agency;

(ii) Knowingly doing business with an ineligible person;

(iii) Failure to pay a single substantial debt, or a number of outstanding debts owed to any state agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

(iv) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

(v) Any other cause of so serious or compelling a nature that it affects a person's present responsibility.

**V. Causes for Suspension.** The causes for suspension include, but are not limited to, the following:

(a) Commission of any offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a person.

(b) Indictment for any of the causes in subparagraph (a) of Section IV above.

(c) Any other event or circumstance which would be cause for debarment.

**VI. Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.**

(a) For “covered transactions,” as that term is defined in 49 C.F.R., Part 29, with a value greater than \$25,000.00, JTA will require certification from any person seeking to do business with JTA, as to whether such person:

(i) is presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(ii) has, within a three-year period preceding an offer, been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;

(iii) is presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in clause (ii) above; and

(iv) has, within a 3-year period preceding the date of such person’s bid or proposal to JTA, had one or more contracts terminated for default by any Federal agency.

(b) The person shall provide immediate written notice to JTA if, at any time prior to contract award, the person learns that its certification required under subsection (a) above was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) Failure to furnish a certification or provide such additional information as requested by JTA may render the person non-responsible.

(d) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the person knowingly rendered an erroneous certification, in addition to other remedies available to JTA, JTA may terminate the contract resulting from a solicitation for default.

(e) When a person indicates in such certification an indictment, charge, civil judgment, conviction, suspension, debarment, proposed debarment, ineligibility, or default of a contract, JTA shall:

(i) Request such additional information from the person as JTA deems necessary in order to make a determination of the person’s responsibility; and

(ii) Notify, prior to proceeding with award, in accordance with JTA rules and procedures, the agency official responsible for initiating debarment or suspension action.

**VII. Reinstatement.**

(a) Grounds. Request for reinstatement shall be made in writing, addressed to the Executive Director, based upon the following:

- (i) The discovery of new and material evidence not previously available;
- (ii) The dismissal of an indictment or reversal of the conviction causing the suspension or debarment; or
- (iii) A bona fide change in ownership or management sufficient to justify a finding of present responsibility.

(b) Procedures. The request for reinstatement shall be forwarded by the Executive Director to the Procurement Review Committee (PRC) for analysis and recommendation to the Executive Director on reinstatement. The person may submit such material as it deems appropriate for review by the PRC, which shall issue a written recommendation as to whether to reinstate based on the written submission of evidence, without further hearing. Upon consideration of the recommendation of the PRC, the Executive Director shall make a determination whether or not reinstatement is warranted based on the provisions of this Rule. In the event that the Executive Director determines to not follow the recommendation of the PRC, the Executive Director shall set forth the reasons therefore in a written determination. The decision of the Executive Director as to reinstatement is a final agency action.