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HOUSE BILL NO. 73

House Amendments in [] — January 29, 2004

A *BILL to amend and reenact § 2.2-4321 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-4312.1, relating to the Contractor Fraud Debarment Act of 2004.*

Patron Prior to Engrossment—Delegate Reese

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-4321 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-4312.1 as follows:

§ 2.2-4312.1. Certification of eligibility by contractor.

All public bodies shall include in every contract over \$10,000 a certification by the contractor that the contractor is not barred from being awarded a contract pursuant to § 2.2-4321 and that the contractor acknowledges that the public body may declare the contract void if the certification completed pursuant to this section is false.

§ 2.2-4321. Debarment procedures.

Prospective A. Every public body shall establish procedures for the debarment of prospective contractors from all types of contracting for a period of three years if the public body finds that the contractor or any managerial officer or officers of such contractor is the subject of any of the following dispositions:

1. A felony conviction involving the criminal violation of relevant securities laws;

2. Imposition of a civil penalty, whether singularly or in the aggregate, of [~~not less than~~ \$500,000 for \$500,000 or more for a] civil violation of relevant securities laws;

3. A final award, by either judgment or settlement, of monetary damages equal to or exceeding \$5 million, stemming from proven or alleged violations of relevant securities laws; or

4. A filing for bankruptcy under federal bankruptcy statutes wherein the underlying cause of the condition of bankruptcy resulted in whole or in part from the commission of fraud in accounting practices or corporate governance.

B. A public body may also provide for the debarment of prospective contractors ~~may be debarred~~ from contracting for particular types of supplies, services, insurance or construction, for specified periods of time. Any debarment procedure shall be established in writing for state agencies and institutions by the agency designated by the Governor and for political subdivisions by their governing bodies. Any ~~debarment procedure~~, and may provide for debarment on the basis of a contractor's unsatisfactory performance for a public body.

C. All debarment procedures shall be established in writing for state agencies and institutions by the agency designated by the Governor and for political subdivisions by their governing bodies.

D. As used in this section:

"Contractor" means a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any form of organization permitted by law.

"Relevant securities laws" means (i) the Sarbanes-Oxley Act of 2002 enacted by Public Law 107-204, as amended, and all rules and regulations as are promulgated thereunder, (ii) the Securities Exchange Act of 1934 (15 U.S.C. § 78(c)) and all rules and regulations as are promulgated thereunder, (iii) the Security Act of 1933 (15 U.S.C. § 77(a) et seq.) and all rules and regulations as are promulgated thereunder, (iv) any other federal securities laws, and (v) the Virginia Securities Act (§ 13.1-501 et seq.) and all rules and regulations as are promulgated thereunder.

[2. That the provisions of this act shall apply to contracts awarded and violations of § 2.2-4321 (A) of this act occurring on or after July 1, 2004.]

ENGROSSED

HB73E