

CHAPTER 406

AN ACT concerning the debarment of certain persons from contracting for public work and supplementing chapter 32 of Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:32-44.1 Debarment of certain persons from contracting for public work; definitions.

1. a. Any person that is debarred at the federal level from contracting with a federal government agency shall be debarred from contracting for any public work in this State.

b. Any affiliate of a person debarred at the federal level from contracting with a federal government agency shall be debarred from contracting for any public work in this State.

c. Prior to awarding any contract for public work, a person shall provide written certification to the contracting agency that neither the person nor the person's affiliates are debarred at the federal level from contracting with a federal government agency. The contracting agency shall not make, negotiate, or award a contract for public work to any person that does not provide such written certification as required by this subsection. The contracting agency shall verify the certification by consulting the federal System for Award Management, or its successor, prior to awarding a contract for public work.

d. In situations of an emergent nature, a contracting agency may enter into a contract with a person, provided that the person agrees to provide the written certification required pursuant to subsection c. of this section within two weeks of the execution of the contract. The contracting agency shall not make final payment to the person until such time as the person provides the written certification. Failure to pay the person until the written certification is received shall not be grounds for the agency being liable for payment.

e. As used in this section:

“Affiliate” means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. An entity controls another entity if it owns, directly or individually, more than 50% of the ownership interest in that entity;

“Contracting agency” means the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, or any independent State authority, commission, instrumentality or agency, or any State college or university, any county college, or any local unit;

“Federal government agency” means any federal executive department, military department, or defense agency, or other agency or independent establishment of the executive branch of the United States;

“Local unit” means any contracting unit as defined pursuant to section 2 of P.L.1971, c.198 (C.40A:11-2), any board of education as defined pursuant to N.J.S.18A:18A-2, a private firm that has entered into a contract with a public entity for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.), a private firm or public authority that has entered into a contract with a public entity for the provision of wastewater treatment service pursuant to P.L.1995, c.216 (C.58:27-19 et al.), and a duly incorporated nonprofit association that entered into a contract with the governing body of a city of the first class for the provision of wastewater treatment services pursuant to P.L.1995, c.216 (C.58:27-19 et al.);

“Person” means any natural person, company, firm, association, corporation, or other entity;

“Public work” means any public building, public highway, bridge, or other public betterment, work or improvement of a permanent nature, constructed, reconstructed, repaired or improved wholly at the expense of the public.

2. This act shall take effect on the 30th day after the date of enactment.

Approved January 21, 2020.