

# CHICAGO PARK DISTRICT

## INELIGIBILITY RULES AND PROCEDURES

March 9, 2011



## **CHAPTER I.**

### **Section C. INELIGIBILITY TO DO BUSINESS WITH THE PARK DISTRICT**

#### **1. Scope**

- (a) This Section shall apply to all Sections of the Code unless specifically stated otherwise; however this Section:
- i. Does not affect any Debarment rules or procedures adopted by the Park District; and,
  - ii. Does not affect the debarment of any Business as determined by the Park District
  - iii. Does not restrict the ability of the Director of Purchasing to make determinations pertaining to the responsibility or responsiveness of a Business on a contract-by-contract basis for any reason, including those stated in this Section; to suspend a Business; or to reject any and all bids pursuant to the applicable provisions of the Code, or any other provision of law or legally permissible reason.
  - iv. Does not restrict the Director of Purchasing ability to apply lesser sanctions than debarment when appropriate.
- (b) This Section applies to all Businesses currently doing business or seeking to do business with the Park District

#### **2. Policy**

- (a) The serious nature of a finding of Ineligibility requires that these sanctions be imposed only in the public interest and not for purposes of punishment. The Board of Commissioners, upon recommendation by the General Superintendent shall determine Ineligibility only for causes set forth in this Section.

#### **3. Definitions**

- (a) As used in this Section:
- i. “Business” means as defined in Chapter 11 of the Code of the Chicago Park District.
  - ii. “Controlling person” means any person who (1) is an officer, director, manager, managing member, partner, general partner or limited partner of any business entity; or (2) owns, directly or indirectly through one or more intermediate ownership entities, more than 7.5% of the ownership interest

- iii. in any business entity; or (3) controls, directly or indirectly through one or more intermediate ownership entities, the day-to-day management of any business entity.
- iv. “Doing business” or “do business” means any Business who has entered into or who attempts to enter into any contract, agreement, permit, license, lease, or other transactions with the Park District, including as a sub-contractor or supplier.

**4. Ineligibility to do business with the Park District.**

(a) *Ineligibility due to a conviction.* No Business shall be eligible to do business with the Park District if the Business or controlling person of such Business has ever been convicted, under parole or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any kind, or of a criminal offense of whatever degree, involving;

- 1. bribery or attempted bribery, or its equivalent under any local, state or federal law, of any public officer or employee of the Park District, City of Chicago or of any sister agency; or
- 2. theft, fraud, forgery, perjury, dishonesty or deceit, or attempted theft, fraud, forgery, perjury, dishonestly or deceit, or its equivalent under any local, state or federal law, against the Park District, City of Chicago or of any sister agency; or
- 3. conspiring to engage in any of the acts set forth in items (1) or (2) of this subsection (a).

(b) *Ineligibility due to an admission of guilt.* No Business shall be eligible to do business with the Park District if the Business or controlling person of such Business has made in any civil or criminal proceeding an admission of guilt of any of the conduct set forth in items (1) through (3) inclusive, of subsection (a) of this section, under circumstances where such admission of guilt is a matter of record but has not resulted in criminal prosecution for such conduct.

(c) *Ineligibility due to filing of charges or indictment.* No Business shall be eligible to do business with the Park District if the Business or controlling person of such Business is charged with or indicted for any felony or criminal offence set forth in items (1) through (3), inclusive, of subsection (a) of this section. Such ineligibility shall remain

in effect until final adjudication is made with respect to such felony or criminal offense.

- (d) *Successor business entities.* Notwithstanding anything to the contrary in the section, if a Business seeking to do business with the Park District (“the applicant entity”) acquires or is merged with a Business that is ineligible under this section to do business with the Park District (“prohibited entity”) such applicant entity shall be eligible to do business with the Park District if all of the following apply: (1) no controlling person or agent of such applicant entity has made an admission of guilt or been convicted, charged or indicted for any of the criminal conduct forming the basis of the prohibited entity’s ineligibility to do business with the Park District; and (2) no person who was a controlling person of the prohibited entity at the time such criminal conduct occurred is a controlling person of the applicant entity; and (3) all other eligibility requirements of this section have been met by the applicant entity and all controlling persons thereof.

## **5. Procedure**

- (a) Upon notification to the General Superintendent of the existence of a condition of Ineligibility as indicated in this Section, a Notice of Proposed Ineligibility shall be delivered to the Business’ contact and address as provided to the Park District, via certified mail or personal service or by any other means reasonable to provide actual notice to the Business (including publication). Date of Delivery will be the date of receipt, if by personal service, or the date of mailing or placing with a private delivery service, with proof of mailing or placement.

- (b) The Notice shall state:

1. That Ineligibility is being proposed
2. The basic facts and reasons for the proposed Ineligibility,
3. The cause(s) relied upon for the proposed Ineligibility;
4. Name, address, telephone and fax numbers, and e-mail address of the Park District contact who can discuss the matter;
5. Copies of the portion(s) of any law, statute, ordinance, regulation, rule or policy alleged to have been violated, if applicable;
6. A copy of this Section, and
7. The date of the Board Meeting of the Park District Board of Commissioners where Ineligibility will be recommended

- (c) A decision for a finding of Ineligibility shall be made as a recommendation to the CPD Board of Commissioners by a letter to the Board at a properly noticed Board Meeting (the “Board Letter”). This Board Letter shall include information:

1. Specifying the reasons for recommending Ineligibility, with reference to record facts;
2. Stating the period and scope of the recommended Ineligibility, including effective dates;
3. Stating the effect of the recommended Ineligibility on the Business' ability to do business with the Park District;
4. Stating the effect of the recommended Ineligibility on the Business' affiliates, entities or any other individuals; and
5. Include a copy of the Notice.

(d) The Board Meeting where the proposed Ineligibility is to be recommended shall be no less than 30 days from the date of delivery of the Notice.

(e) At said Board Meeting the Business shall be given the opportunity to be heard to dispute the recommend Ineligibility, the length and scope of which is determined solely by the Board of Commissioners.

(f) At said Board Meeting the Board of Commissioners shall vote for any Ineligibility. The date of the vote shall be the effective date of Ineligibility unless stated otherwise in the Board Letter or in accordance with these Rules.

(g) Once the Agenda of said Board Meeting has been publicly posted, a copy of the Board Letter is to be provided to the Business prior to the start of the Board Meeting, if requested by the Business.

(h) A recommendation for Ineligibility may be withdrawn by the General Superintendent without prejudice any time prior to the vote of the Board of Commissioners.

(i) The decision of the Board, in acting on the recommendation, shall be final. The Business' sole remedy shall be judicial review by a common law writ of certiorari in Illinois.

#### **6. Duty to Maintain Eligibility.**

(a) Eligibility under this Section to do business with the Park District shall be a continuing requirement for doing business with the Park District.

(b) Failure to maintain eligibility to do business with the Park District in violation of this Section shall render any contract, agreement, permit, license, or lease or other transactions with the Park District, including as a sub-contractor or

supplier on behalf of or in any way connected to such Business or controlling person voidable or subject to termination or revocation, as applicable, at the option of the General Superintendent. Provided, however, that no such action shall be voided, terminated or revoked by the General Superintendent if, upon written application to the General Superintendent, the Director of the department utilizing the products or services of the Business sets forth facts sufficient in the judgment of the General Superintendent to establish (1) that the public health, safety or welfare of the public requires such action or the goods or services provided as a result of such action; or (2) that the Park District is unable to acquire the goods or services provided as a result of such action at comparable price and quality, or in sufficient quantity or time, from other sources.

## **7. Cancellation of Ineligibility**

- (a) Ineligibility may be cancelled prospectively or the duration and or scope may be reduced or waived by the General Superintendent, upon written application of the Ineligible Business, supported by documentation, for any of the following reasons:
1. Reversal of the conviction or judgment which Ineligibility is based. If the conviction or judgment was based on an admission of conduct that was a cause for Debarment, the General Superintendent shall determine whether such admitted conduct negatively affects the responsibility of Business;
  2. Bone fide change in ownership and or control of the Business, or other mitigating factors sufficient, in the judgment of the General Superintendent, to remove the conditions giving rise to the conduct that led to the Ineligibility.
- (b) An application by or on behalf of an Ineligible Business to cancel the Ineligibility must be in writing, state the specific bases for the application and include all reasons and documents the applicant intends to rely upon in support of the application. The General Superintendent may request that the applicant present its argument to the Park District Board of Commissioners at a properly noticed Board Meeting to determine any cancelation or waiver of Ineligibility.