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New Debarment Regulations Provide More Flexibility and Lay Out A Fair Process May 20, 2020

We're pleased to see that the MTA has developed proposed final debarment regulations that respond to our concerns and those of good government groups like Reinvent Albany, and to the construction community. The regs were moved forward by the MTA Board today – slightly less than a year after the emergency regulations were passed in executive session and without public notice.

There will now be a 45-day comment period during which the public can weigh in on the regs, which narrow the scope of the earlier, 'non-final' regs; inject flexibility into whether to initiate debarment proceedings; change the composition of the three person hearing panel; and relate to 'debarment of a contractor's related parties and individuals...'.

Importantly, the new regs and added flexibility in debarment address concerns we've heard contractors state about bidding on MTA projects. We hope the revised regulations will translate into increased competition and lower prices on projects moving forward.

Among other changes, the newly proposed final regulations will only apply to contracts entered into after the emergency regulations took effect in April 2019 and do not apply to subcontractors – both of which are fair and should have been included in the earlier, emergency regulations. The issues that have been addressed were significant points of concern across a broad spectrum and we're glad to see that the more collaborative approach to developing rulemaking will result in better regulations and a fair process to resolve project cost and schedule issues.