



Reinvent Albany Testimony to Senate Standing Committee on Labor

Oversight Hearing on Workers Compensation Board

*RE: Debarment Lists Should be Published as Open Data to
Stop Labor Law Violators from Getting Government Contracts*

May 15, 2024

Reinvent Albany advocates for transparent and accountable government in New York State and City. Thank you for holding this hearing and accepting our written testimony regarding areas of improvement for the Workers Compensation Board (WCB).

One role of the Workers Compensation Board is to debar people or organizations who have been penalized for violating the Workers Compensation Law. Debarred entities are prohibited from being awarded contracts with the state, as well as other local governments and authorities in New York.

Unfortunately, as described later in this testimony, the “list” published by the Department of Labor of people and companies who have been debarred by the WCB is nearly useless.

This is extra disturbing because according to the [Office of General Services](#), the only entities debarred from contracting with New York State are debarred for labor law violations. This makes publishing WCB’s debarment data doubly important.

According to OGS:

“Although there are other State laws authorizing the debarment of individuals and entities from State contracting, OGS has not been made aware that any individuals or entities have been debarred pursuant to those laws.”

Unfortunately, there is a major corruption risk when the public can’t see the entities who have been debarred for labor or other violations. [As reported by The City](#) news platform, Kiska Construction was and still is at the heart of a number of major corruption scandals in New York City, yet somehow slipped through the cracks and was

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awarded a contract by the State Department of Transportation. If there were lists of current and formerly debarred people and companies easily accessible to the public, we think it is unlikely the state would have awarded them a contract.

The names of people and companies who have been debarred for labor violations or public corruption convictions should not be hidden from the public, and we thank Senator Ramos for introducing forthcoming legislation that will require the lists of debarred companies to be published as open data.

We emphasize that debarment isn't done lightly; there are specific conditions that trigger debarment, spelled out under section 141-b of the Workers Compensation Law including individuals and entities that have been:

1. Subject to a final assessment of civil fines or penalties, or a stop-work order;
2. Convicted of a misdemeanor for a violation under sections twenty-six (defaulting on payments), fifty-two (failure to secure compensation) or one hundred thirty-one (failure to keep payroll records) of the Workers Compensation Law ;
3. Convicted of a felony under the Workers Compensation Law; or
4. Convicted of a misdemeanor under sections one hundred twenty-five (job discrimination based on prior receipt of benefits) and one hundred twenty-five-a (discriminating against an injured veteran) of the Workers Compensation Law.

Unfortunately, the public cannot see a list of entities debarred by the WCB. A balky restricted search form is published on the [Department of Labor's website](#), where functionally the public can only enter the name of one entity at a time. But despite its name, this "debarment list" is not a list of companies that have been debarred by the WCB.

For example, entering "New York, NY" as a search term on the Department of Labor's "Debarment List" portal for the WCB generates the following response:

"WCB Search is resulting in more than 500 items. Please refine your search."

It defeats the entire purpose of publishing a "list" if you have to know who has been debarred, or check the name of every entity you are concerned about to see if they are eligible to bid on contracts. Once the debarment period expires, the entity is removed from the list, so there is no historical record of past departments.

This is despite an Executive Order that requires that a list of the names of debarred entities be published online. Under [Executive Order 192 of 2019](#), the Office of General Services is required to publish on its website the persons or entities that have been debarred due to labor or other violations. EO 192 also requires the Workers

Compensation Board and Department of Labor to maintain information about individuals and entities that have been debarred, and to submit a list of contractors to the Office of General Services.

The state should be doing everything it can to make sure that it is spending public dollars on companies that protect their workers, deliver on their contracts, and are not embroiled in pay-to-play or corruption schemes. Publishing debarment lists as open data is just common sense.