
SENATE BILL 5479

State of Washington

64th Legislature

2015 Regular Session

By Senators Lias and Pearson; by request of Department of Enterprise Services

1 AN ACT Relating to the debarment authority of the director of
2 enterprise services; and amending RCW 39.26.200.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 39.26.200 and 2013 2nd sp.s. c 34 s 1 are each
5 amended to read as follows:

6 (1)(a) The director shall provide notice to the contractor of the
7 director's intent to either debar, fine, or both, with the specific
8 reason for either the debarment, fine, or both. The department must
9 establish the debarment (~~process~~) and fining processes by rule.

10 (b) After reasonable notice to the contractor and reasonable
11 opportunity for that contractor to be heard, the director has the
12 authority to debar a contractor for cause from consideration for
13 award of contracts. The debarment must be for a period of not more
14 than three years.

15 (c) Under the procedures used to debar a contractor established
16 by the department under this section, the director has the authority
17 to impose a fine on a contractor for cause in replacement of, or in
18 addition to, debarment. The amount of the fine may not exceed the
19 cost of the debarment proceedings and the administrative and
20 processing costs incurred by the agency.

1 (2) The director may either debar, fine, or both, a contractor
2 based on a finding of one or more of the following causes:

3 (a) Conviction for commission of a criminal offense as an
4 incident to obtaining or attempting to obtain a public or private
5 contract or subcontract, or in the performance of such contract or
6 subcontract;

7 (b) Conviction or a final determination in a civil action under
8 state or federal statutes of fraud, embezzlement, theft, forgery,
9 bribery, falsification or destruction of records, receiving stolen
10 property, violation of the federal false claims act, 31 U.S.C. Sec.
11 3729 et seq., or the state medicaid fraud false claims act, chapter
12 74.66 RCW, or any other offense indicating a lack of business
13 integrity or business honesty that currently, seriously, and directly
14 affects responsibility as a state contractor;

15 (c) Conviction under state or federal antitrust statutes arising
16 out of the submission of bids or proposals;

17 (d) Two or more violations within the previous five years of the
18 federal labor relations act as determined by the national labor
19 relations board or court of competent jurisdiction;

20 (e) Violation of contract provisions, as set forth in this
21 subsection, of a character that is regarded by the director to be so
22 serious as to justify debarment action:

23 (i) Deliberate failure without good cause to perform in
24 accordance with the specifications or within the time limit provided
25 in the contract; or

26 (ii) A recent record of failure to perform or of unsatisfactory
27 performance in accordance with the terms of one or more contracts,
28 however the failure to perform or unsatisfactory performance caused
29 by acts beyond the control of the contractor may not be considered to
30 be a basis for debarment;

31 (f) Violation of ethical standards set forth in RCW 39.26.020;
32 and

33 (g) Any other cause the director determines to be so serious and
34 compelling as to affect responsibility as a state contractor,
35 including debarment by another governmental entity for any cause
36 listed in regulations.

37 (3) The director must issue a written decision to debar. The
38 decision must:

39 (a) State the reasons for the action taken; and

1 (b) Inform the debarred contractor of the contractor's rights to
2 judicial or administrative review.

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