
PUBLIC HEARING
PROPOSED CHANGES TO CHAPTER 200-305 WAC
DEBARMENT PROCEDURES

May 8, 2018
Olympia, Washington

DIXIE CATTELL & ASSOCIATES
COURT REPORTERS & VIDEOCONFERENCING
(360) 352-2506

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APPEARANCES :

FOR DEPARTMENT OF
ENTERPRISE SERVICES:

MR. JACK ZEIGLER
MR. GREG TOLBERT
DEPARTMENT OF ENTERPRISE SERVICES
1500 Jefferson Street
Olympia, WA 98504

1 BE IT REMEMBERED that on Tuesday, May 8, 2018, at
2 8:32 a.m., at 1500 Jefferson Street, Olympia, Washington,
3 before REBECCA S. LINDAUER, Certified Court Reporter, in and
4 for the State of Washington, the following proceedings were
5 had, to wit:

6
7 MR. ZEIGLER: Good morning, everybody. My name is
8 Jack Zeigler, and I'm the Policy and Rules Manager for the
9 Department of Enterprise Services. I will be the presiding
10 officer at this hearing.

11 I call this hearing to order on May 8, 2018, at 8:32.
12 This public hearing is being held pursuant to the
13 Administrative Procedure Act, Chapter 34.05 RCW; the Open
14 Public Meetings Act, Chapter 42.30 RCW; and DES's enabling
15 statute, Chapter 43.19 RCW.

16 The purpose of this hearing is to take public comment
17 on proposed changes to Chapter 200-305 WAC Debarment
18 Procedures.

19 This hearing will consist of two parts. First, we'll
20 provide a brief explanation of the proposal. Second, we
21 will receive oral testimony.

22 There are sign-in sheets up here on the table right
23 here. And while not required, I ask anyone who has not yet
24 signed in to do so, even if you do not wish to testify. If
25 you wish to testify, please mark that on the sign-in sheet.

1 I will call individuals to testify in the order in which
2 people sign in.

3 This hearing is being recorded by a court reporter, and
4 the transcript will become part of the official rule-making
5 file. I ask that you keep your comments to five minutes or
6 less. This hearing is intended to provide an opportunity to
7 receive your comments. It is not intended as an interactive
8 forum or a Q and A session. I ask that audience members not
9 applaud or make other noise that might prevent the court
10 reporter from capturing everyone's comments clearly and
11 completely.

12 I would like to introduce those individuals who are
13 seated with me at the table. To my left is Becky Lindauer,
14 who will be providing court reporter services.

15 At this time, I would like to briefly summarize the
16 proposed rule. For goods and services contracts, the
17 Washington Department of Enterprise Services has the
18 authority to debar private sector contractors under state
19 law RCW 39.26.200.

20 A change in the state law triggers the need for rule
21 making to align with the current law. The proposed
22 rules change -- I'm sorry. The proposed rules provide an
23 option for Enterprise Services to fine a contractor in lieu
24 of debarment for certain statutory causes that otherwise
25 could be a basis for debarment. A fine in lieu of

1 debarment, if paid on time, would not be a debarment order.
2 Of the numerous statutory reasons for the debarments, fines
3 in lieu of debarment could be available for serious contract
4 violations and ethics violations.

5 Under the proposed rule, a contractor who is fined
6 would not be debarred at the same time. In addition, fines
7 will not replace existing mechanisms that are used to
8 prevent and correct issues that may arise with contracts.

9 Based on these circumstances, changes are necessary to
10 current debarment procedures rules under Chapter 200-305
11 WAC.

12 Now I'll open it up to public testimony. Does anybody
13 wish to testify at this time?

14 MR. SIDERMAN: I have one comment.

15 MR. ZEIGLER: Yes, sir.

16 MR. SIDERMAN: Based on what you've said and what
17 I've read, it's unclear how the fine system will work in
18 conjunction with debarment and what ramification it would
19 have with regards to vendors actually submitting proposals
20 in response to RFP's and RFQ's.

21 MR. ZEIGLER: Thank you.

22 MR. SIDERMAN: I hate to admit I didn't read the
23 entire statute, but I didn't. Based on what you just read,
24 it's unclear how we as vendors are impacted in the RFQ
25 process. And will -- also, whether a fined vendor is

1 prohibited from operating while they're between their fine
2 and payment. Are they prohibited with a temporary
3 debarment? There's a lot of ambiguity in terms of how the
4 fine is being used punitively and restrictively, not that my
5 firm ever anticipates getting one.

6 MR. ZEIGLER: I'm sorry, but I didn't get your
7 name.

8 MR. SIDERMAN: Scott Siderman. I'm the only
9 person from the outside world.

10 MR. ZEIGLER: Thank you.

11 MR. SIDERMAN: I did sign up. Yeah. Like I said,
12 it's -- I'm here representing my firm. It's kind of a
13 reaction to what I've read. It just feels squishy. It is a
14 technical term.

15 And while I say that, I do understand the need for
16 something less stringent and punitive than a full debarment
17 so I do have respect for the addition of a different
18 channel.

19 MR. ZEIGLER: Thank you.

20 Does anybody else wish to testify? So no one else
21 wishes to testify. At this time we'll go off the record,
22 and we'll go back on the record if someone arrives and
23 wishes to testify. Thank you.

24 (Recessed at 8:37 a.m.)

25 (Reconvened at 9:15 a.m.)

1 MR. ZEIGLER: We're back on record. No one has
2 showed up to testify, since we went off the record.

3 Thank you for coming. If you wish to submit written
4 comments, please send them to written comment on the
5 proposed rules. That will be accepted using our online
6 comment form located at [www.surveymonkey.com/r/
7 debarmentfines](http://www.surveymonkey.com/r/debarmentfines) or by email at rules@des.wa.gov. The
8 deadline for written comments is the close of business on
9 Friday, May 11, 2018.

10 This public hearing is concluded at 9:15 a.m., May 8,
11 2018.

12 (Concluded at 9:15 a.m.)
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C E R T I F I C A T E

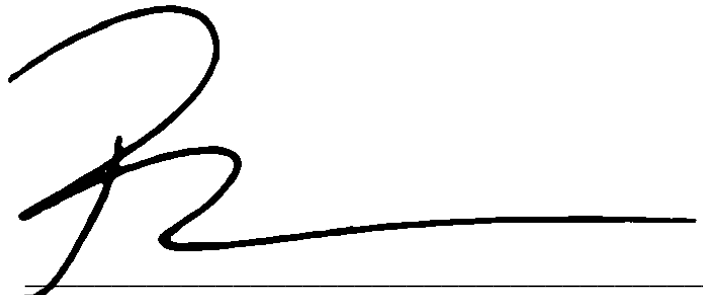
I, REBECCA S. LINDAUER, a Certified Court Reporter in and for the State of Washington, residing at Lacey, do hereby certify:

That the foregoing public hearing was taken before me and completed on the 8th day of May 2018, and thereafter transcribed by me by means of computer-aided transcription; that the public hearing is a full, true, and complete transcript of the proceedings;

That I am not a relative, employee, attorney, or counsel of any party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the public hearing and promptly mailing the same to MR. JACK ZEIGLER.

IN WITNESS HEREOF, I have hereunto set my hand this 10th day of May 2018.



Rebecca S. Lindauer, CSR#2402
Certified Court Reporter, in and for the
State of Washington, residing at Lacey.

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making 4:21 Manager 3:8 mark 3:25 mechanisms 5:7 Meetings 3:14 members 4:8 minutes 4:5 morning 3:7 <hr/> N <hr/> noise 4:9 numerous 5:2 <hr/> O <hr/> officer 3:10 official 4:4 Olympia 3:2 online 7:5 open 3:13 5:12 operating 6:1 opportunity 4:6 option 4:23 oral 3:21 order 3:11 4:1 5:1 <hr/> P <hr/> paid 5:1 part 4:4 parts 3:19 payment 6:2 people 4:2 person 6:9 Policy 3:8 presiding 3:9 prevent 4:9 5:8 private 4:18	Procedure 3:13 procedures 3:18 5:10 proceedings 3:4 process 5:25 prohibited 6:1,2 proposal 3:20 proposals 5:19 proposed 3:17 4:16, 21,22 5:5 7:5 provide 3:20 4:6,22 providing 4:14 public 3:12,14,16 5:12 7:10 punitive 6:16 punitively 6:4 purpose 3:16 pursuant 3:12 <hr/> R <hr/> ramification 5:18 RCW 3:13,14,15 4:19 reaction 6:13 read 5:17,22,23 6:13 reasons 5:2 REBECCA 3:3 receive 3:21 4:7 recessed 6:24 reconvened 6:25 record 6:21,22 7:1,2 recorded 4:3 REMEMBERED 3:1 replace 5:7 reporter 3:3 4:3,10,14 representing 6:12 required 3:23 respect 6:17 response 5:20	restrictively 6:4 RFP's 5:20 RFQ 5:24 RFQ's 5:20 rule 4:16,20 5:5 rule-making 4:4 rules 3:8 4:22 5:10 7:5 rules@des.wa.gov. 7:7 <hr/> S <hr/> Scott 6:8 seated 4:13 sector 4:18 send 7:4 services 3:9 4:14,16, 17,23 session 4:8 sheet 3:25 sheets 3:22 showed 7:2 Siderman 5:14,16,22 6:8,11 sign 4:2 6:11 sign-in 3:22,25 signed 3:24 sir 5:15 squishy 6:13 state 3:4 4:18,20 statute 3:15 5:23 statutory 4:24 5:2 Street 3:2 stringent 6:16 submit 7:3 submitting 5:19 summarize 4:15 system 5:17	<hr/> T <hr/> table 3:22 4:13 technical 6:14 temporary 6:2 term 6:14 terms 6:3 testify 3:24,25 4:1 5:13 6:20,21,23 7:2 testimony 3:21 5:12 time 4:15 5:1,6,13 6:21 transcript 4:4 triggers 4:20 Tuesday 3:1 <hr/> U <hr/> unclear 5:17,24 understand 6:15 <hr/> V <hr/> vendor 5:25 vendors 5:19,24 violations 5:4 <hr/> W <hr/> WAC 3:17 5:11 Washington 3:2,4 4:17 wishes 6:21,23 wit 3:5 work 5:17 world 6:9 written 7:3,4,8 www. surveymonkey.com/ r 7:6
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Zeigler 3:7,8 5:15,21
6:6,10,19 7:1