



## **DES begins rulemaking for debarment fines pertaining to goods and service contracts**

For goods and services contracts, the Washington State Department of Enterprise (DES) has the authority to debar private sector contractors under state law (RCW [39.26.200](#)). In addition, a new law went into effect earlier this year that also authorizes the department to fine contractors as an alternative to debarment.

The updated law triggers the need for state rulemaking to align with current law. DES plans to work closely with stakeholders throughout the rulemaking process.

DES is starting the first phase of this effort and will be drafting proposed rules. It is critical that the department get stakeholder participation. DES is holding three workshops to gain input.

All three workshops will be held in Olympia at 1500 Jefferson St., Room 2208. Groups, times and dates are:

- **Procurement Customer Advisory Group:** Monday, Sept. 21, from 1:30 to 4 p.m.
- **State agencies:** Monday, Oct. 5, from 9 to 11:30 a.m.
- **Businesses:** Monday, Oct. 19, from 1:30 to 4 p.m.

Discussions at the workshops will help inform elements of the draft rule. DES is especially interested in hearing thoughts on:

- Criteria for using fines versus debarment.
- How fine amounts should be determined.
- Due process to be followed when levying fines.
- The best way to ensure transparency about who is fined.

Fines are not meant to replace existing mechanisms used to prevent and correct issues that may arise with contracts. In addition, under state law, a contractor who is fined would not be debarred at the same time.

### **Rulemaking process**

Once the draft rules are filed with the state Office of the Code Reviser, there will be additional opportunity for feedback during an official public comment period.

DES has filed a notice with the state Code Reviser that the agency intends to engage in this rulemaking effort. This first step, the CR -101: Preproposal Statement of Inquiry, must be taken before stakeholders can be invited to participate in the agency's rulemaking process.

The intent to engage in rulemaking (CR-101) must be published in the Washington State Register at least 30 days before DES can file its proposed rule which marks the formal beginning of rulemaking and the start of the office public comment period, including public hearings (CR-102: Proposed Rule Making).

### **More information**

More information is available on the [DES rule making web page](#). If you have questions about the rulemaking process, please contact DES Policy and Rules Manager [Jack Zeigler](#) at (360) 407-9209.