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|  | **Instructions for Debarment Referral Form**Washington Department of Enterprise Services  |

Prior to submitting a debarment referral, please review these instructions. The instructions are designed to do two things:

1. Provide you with helpful background information regarding debarment and Enterprise Services’ scope of authority; and
2. Explain the information that is requested – along with a sample – in each of the four parts of the Debarment Referral Form.

**1. Debarment Background**

**Debarment Referrals Must Be In Writing**

A debarment referral must be in writing. You may use the *Debarment Referral Form* on our website or communicate – in writing (e.g., letter, email). The debarment referral may be submitted by email or mailed to the following:

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| Email | U.S. Mail |
| debarment@des.wa.gov | Debarment OfficeWashington State Department of Enterprise ServicesP.O. Box 1466Olympia, WA 98504-1466 |

**Enterprise Services Will Acknowledge Receipt of your Debarment Referral**

Regardless of whether you submit the debarment referral on the form provided or by other written means, Enterprise Services will acknowledge receipt of your debarment referral and provide a reference number. We try to acknowledge the referral within one to three business days, depending on workload.

**Basis for Debarment – Enterprise Services’ Debarment Authority**

Under Washington law, any person may file a debarment referral with the Washington Department of Enterprise Services. Pursuant to applicable law (RCW chap. 39.26), the Director of Enterprise Services is authorized to debar any individual or entity awarded a contract with an agency to perform a service or provide goods for up to three (3) years. If an individual or entity is debarred, they will be prohibited from:

* Submitting a bid – i.e., an offer, proposal, or quote for goods or services in response to a solicitation issued for such goods or services by Enterprise Services or any state agency
* Having a bid considered; or
* Entering into a state contract during a specified period of time as set forth in a debarment order.

**2. Instructions and Sample Debarment Referral Form**

To evaluate a debarment referral, Enterprise Services needs you to provide the following information:

* The name of the individual and/or entity you are referring for debarment
* The statutory basis for the debarment referral
* The specific factual information supporting the statutory basis for debarment; and
* Your contact information.

The *Debarment Referral Form* addresses each of these items. Accordingly, you are encouraged to use the *Debarment Referral Form*. This will help us to evaluate your referral promptly. You may, however, choose to provide the information in a letter or email instead of using the form. If you do so, however, please provide all of the information set forth above. To help determine whether a business or person should be debarred, it is critical that you supply as much detail as possible.

The following instructions provide guidance and a sample for each of the four sections of the *Debarment Referral Form*.

**Part 1 – Debarment Referral**

This section is designed to identify the firm or person who you are referring for debarment. You may not have all of the requested information concerning the firm or person you are referring, but please provide as much past and present identifying information as possible.

Sample –

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| **Part 1**  | **Debarment Referral** |
| *Provide information about the individual or business you are referring for debarment* |
| *Name:* | Acme Consulting, LLC |
| *Business Address:* | 123 Main StreetAnytown, WA 12345 |
| *Owners:* | John Doe; Jane Doe |
| *Telephone:* | 123-456-7890 |

**Part 2 – Statutory Basis for the Debarment Referral**

This section requires you to check the statutory basis for debarment. If appropriate, you may check more than one basis. If none of the specific categories seem to fit, please use the ‘other’ category and explain why in detail.

Pursuant to applicable law, the Director of Enterprise Services may debar a contractor based on a finding of one or more of the following causes:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
2. Conviction or a final determination in a civil action under state or federal statutes of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the federal false claims act, 31 U.S.C. § 3729 *et seq*., or the state medicaid fraud false claims act, chapter 74.66 RCW, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects responsibility as a state contractor;
3. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
4. Two or more violations within the previous five years of the federal labor relations act as determined by the national labor relations board or court of competent jurisdiction;
5. Violation of contract provisions, as set forth in this subsection, of a character that is regarded by the director to be so serious as to justify debarment action:
	1. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
	2. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, however the failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;
6. Violation of ethical standards set forth in RCW 39.26.020; and
7. Any other cause the director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations.

RCW 39.26.200(2)(a) – (g). *See also* WAC 200-305-020.

The following are explanations and examples of the basis for the referral:

1. Conviction of any crime that weighs on the ability to perform the terms of a contract. Examples:
	* ZYX Internet Inc. is convicted of Internet fraud. As a condition of the sentence, ZYX is prohibited from accessing the internet. ZYX would not be able to perform a contract for development of a website.
	* Jane is convicted of a crime and her business license is revoked. She cannot perform on any contract that requires her to operate as a business.
2. Conviction of any crime involving dishonesty.
	* Examples: Common crimes involving dishonesty include: perjury (lying under oath); forgery (passing your signature off as belonging to another in an attempt to steal or injure); identity theft; presenting false academic credentials (presenting a false degree in an effort to get a job), etc.
3. Any other offense indicating a lack of business integrity or business honesty.
	* Examples: A business may be convicted of unlawfully violating environmental laws; failing to pay labor and industries taxes; illegal possession of drugs; stealing, etc.
4. Violations of Labor Laws.
	* Examples: Violation of the state’s minimum wage act; employment of underage or undocumented workers; violations of the fair labor standards act, etc.
5. Violations of provisions of previously awarded contracts.
	* Examples: The person or business may have completed performance of a previously awarded contract but may have violated provisions of confidentiality, non-competition, terms of acceptance or payment.
6. Deliberate failure to perform in accordance with the specifications or within the time limit provided in the contract.
	* Examples: The contract isn’t completed on time and the product does NOT have the capabilities or characteristics as required by the contract.
7. A recent record of failure to perform or unsatisfactorily perform in accordance with the terms of one or more contracts.
8. Violation of the ethical limitation on gifts provisions of [RCW 42.52.150](http://apps.leg.wa.gov/RCW/default.aspx?cite=42.52.150); standards set forth in [RCW 39.26.020](http://apps.leg.wa.gov/RCW/default.aspx?cite=39.26.020).
	* Examples: State law puts strict limitations of gifts that state employees who are part of acquiring goods or services can receive from contractors. If you think that this provision has been violated, it’s best to list the details.
9. Other:
	* Explanation: Not every possible reason for debarment is listed above. If you believe that the business or person has engaged in activities that are inconsistent with the state’s best interest and the use of tax payer dollars, please include it.

Sample –

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| **Part 2** | **Statutory basis for the Debarment Referral** |
| *Please check the relevant statutory basis (or, if more than one, please check each basis)* |
| 🗹 | 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 |
| 🞎 | 1. Conviction or a final determination in a civil action under state or federal statutes of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the federal false claims act, 31 U.S.C. § 3729 *et seq*., or the state medicaid fraud false claims act, chapter 74.66 RCW, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects responsibility as a state contractor;
 |
| 🞎 | 1. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals
 |
| 🞎 | 1. Two or more violations within the previous five years of the federal labor relations act as determined by the national labor relations board or court of competent jurisdiction;
 |
| 🞎 | 1. Violation of contract provisions, as set forth in this subsection, of a character that is regarded by the director to be so serious as to justify debarment action:
	1. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
	2. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, however the failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;
 |
| 🞎 | 1. Violation of ethical standards set forth in RCW 39.26.020; and
 |
| 🞎 | 1. Any other cause the director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations.
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**Part 3 – Support for Referral**

This section should include the names of all those who might have information regarding the debarment referral and their contact information. This information will help Enterprise Services investigate the referral.

Sample –

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| **Part 3** | **The Specific Factual Information Supporting the Statutory Basis for Debarment** |
| *Include specific factual information supporting the statutory basis for debarment. List and attach any documents supporting the debarment referral* |
| *Specific factual information supporting the statutory basis for debarment:* | Acme Consulting, LLC was convicted of a crime on January 4, 2015 in King County Superior Court and its business license was revoked. Acme Consulting, LLC cannot perform on any contract that requires it to operate as a business. I have attached a copy of the Court Order. |
| *Attached documents:* | I have attached the documents listed below:Document 1Document 2 |

**Part 4 – Your Information & Submission Instructions**

This section simply provides your information so that Enterprise Services can acknowledge receipt of the debarment referral and follow-up with you as necessary.

Sample –

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| **Part 4** | **Your Contact Information** |
| *Please provide your contact information:* |
| *Name:* | John Smith |
| *Address:* | 987 Main StreetAnytown, WA 12345 |
| *Telephone:* | 987-654-3210 |
| *Email:* | JohnSmith@isp.com |

After completing the form, save the file and email it as an attachment to debarment@des.wa.gov.

Or you can print the completed form and send it via United States Postal Service to:

Debarment Office
Department of Enterprise Services
1500 Jefferson Street SE
Olympia, WA 98504-1466

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