



State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety

AKOSH Program Directive #19-07

Date: November 26, 2018

To: All AKOSH Staff

From: Deborah Kelly, Director ^{DK}

Subject: Report to the Commissioner for debarment from state contracts

This program directive becomes effective immediately. Please ensure that all members of your staff receive this program directive, and understand how to implement it.

Purpose: This directive establishes a procedure for Alaska Occupational Safety and Health to report certain persons who violate Alaska's Occupational Safety and Health laws to the Commissioner for a recommendation of debarment from award of state contracts.

Scope: This policy applies AKOSH-wide

Cancellations: None

References:

- Administrative Order 286
- Alaska Administrative Code 2 AAC 12.625, 8 AAC 100.010 – 8 AAC 100.040
- AKOSH Field Operations Manual (PD #19-06 or current update)

Background: Administrative Order 286 required the Department of Administration and the Department of Labor and Workforce Development to work together to promulgate regulations that promote compliance with state and federal labor, workplace safety, and tax laws through the state's procurement process. As a result, 8 AAC 100.010-.040 and 2 AAC 12.625 were promulgated.

These regulations established a requirement for divisions within DOLWD to report certain persons violating labor law to the Commissioner. The Commissioner may then recommend the person to the Commissioner of Administration for debarment proceedings under AS 36.30.635.

During the period of debarment, the person is ineligible for consideration for award of state contracts.

Procedure: When a citation becomes a final order, the AKOSH Chief will determine whether the citation meets the criteria for a debarment recommendation. If the criteria are met, the AKOSH Chief will work with the CSHO and the Director to make a report to the Commissioner.

The report shall be in division memo format. The memo will include the following:

- A description of the circumstances of the violation;
- An explanation of how the violation meets the criteria for debarment; and
- The date that the citation became a final order.

Documentation showing that the violation is a final order must be attached to the memo. This documentation may be an Informal Settlement Agreement signed by both parties, an order of the OSH Review Board, or a court decision. Refer to the AKOSH Field Operations Manual for information regarding the final order status of a citation.

Criteria for debarment: The following violations meet the criteria for a recommendation for debarment:

- Willful;
- Repeat;
- Failure to report;
- Failure to abate; or
- A serious, willful, or repeat violation that contributed to a fatality, amputation, or loss of an eye.

Additional criteria for debarment: The following instances meet the criteria for a recommendation of debarment. In these instances, the Director will consult with Attorney General's office prior to making a report to the Commissioner:

- An employer falsified or concealed records, or took any other action to conceal a violation;
- An employer transferred assets to avoid liability or collection of debt; or
- An employer violated an order restraining a condition or practice under AS 18.80.096 (8 AAC 61.100).