

RCW 39.19.090 Compliance with chapter or contract—Penalties—Audit and review unit established—Remedies. (1) (a) Except as provided in (b) of this subsection, if a person, firm, corporation, or business does not comply with any provision of this chapter or with a contract requirement established under this chapter, the state may impose one or more of the following penalties: Withholding payment, decertifying the contractor, debarring the contractor, suspending or terminating the contract, or subjecting the contractor to civil penalties of up to 10 percent of the amount of the contract or up to \$5,000 for each violation.

(b) If a person, firm, corporation, or business commits any of the activities prohibited in RCW 39.19.080, the state must impose one or more of the following penalties: Withholding payment, decertifying the contractor, debarring the contractor for a period between one and three years, terminating the contract, or subjecting the contractor to civil penalties of between two and 10 percent of the amount of the contract or between \$1 and \$5,000 for each violation.

(c) In addition to any other penalties imposed, willful repeated violations, exceeding a single violation, must disqualify the contractor from further participation in state contracts for a period of three years. A willful violation includes a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact, with the specific intent of obtaining, continuing, or increasing benefits under this chapter.

(2) An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or educational institution.

(3) The office shall follow administrative procedures under chapter 34.05 RCW in determining a violation and imposing penalties under this chapter. The office shall adopt by rule criteria for the imposition of penalties under this section. The rule may incorporate the debarment process authorized for the department of enterprise services in RCW 39.26.200.

(4) (a) An audit and review unit is established within the office for the purpose of detecting and investigating fraud and violations of this chapter. The office must employ qualified personnel for the unit.

(b) For the purpose of any investigation or proceeding under this chapter, the director or the director's designee may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the director or the director's designee deems relevant or material to the inquiry.

(c) Subpoenas issued under this section may be enforced under RCW 34.05.588.

(d) The audit and review unit must annually:

(i) Conduct a site review of a minimum of three percent of persons, firms, corporations, or businesses awarded a contract under this chapter;

(ii) Submit a response for all complaints for investigation made by an external agency to the agency submitting the complaint;

(iii) Develop and implement a process for prioritizing and conducting thorough investigations of persons, firms, corporations, or businesses identified by an external complaint and determined to be the highest priority for the agency; and

(iv) Develop and implement a process for prioritizing and conducting thorough investigations of persons, firms, corporations, or businesses internally identified and determined to be the highest priority for the agency.

(5) The procedures and sanctions in this section are not exclusive; nothing in this section prevents the state agency or educational institution administering the contracts from pursuing such procedures or sanctions as are otherwise provided by statute, rule, or contract provision. [2021 c 160 § 4; 1987 c 328 § 6; 1983 c 120 § 9.]