

WAC 200-305-030 Aggravating and mitigating factors. The following are the mitigating and aggravating factors that the investigating official and debarment official may consider in determining whether to debar and the length of the debarment period, or to fine in lieu of debarment.

(1) The actual or potential harm or impact that resulted or may result from the wrongdoing.

(2) The frequency of incidents and/or duration of the wrongdoing.

(3) Whether there is a pattern or prior history of wrongdoing.

(4) Whether the contractor or affiliate has been excluded or disqualified by an agency of the federal government or has not been allowed to participate in state or local contracts or assistance agreements on a basis of conduct similar to one or more of the causes for debarment specified in this rule.

(5) Whether the contractor or affiliate has entered into an administrative agreement with a federal agency or a state or local government that is not government-wide but is based on conduct similar to one or more of the causes for debarment specified in this rule.

(6) Whether the contractor or affiliate has accepted responsibility for the wrongdoing and recognizes the seriousness of the misconduct that led to the cause for debarment.

(7) Whether the contractor or affiliate has paid or agreed to pay all criminal, civil and administrative liabilities for the improper activity, including any investigative or administrative costs incurred by the government, and has made or agreed to make full restitution.

(8) Whether the contractor or affiliate has cooperated fully with the government agencies during the investigation and any court or administrative action. In determining the extent of cooperation, the investigating official or debarment official may consider when the cooperation began and whether the contractor or affiliate disclosed all known pertinent information.

(9) The kind of positions held by the individuals involved in the wrongdoing.

(10) Whether the contractor or affiliate took appropriate corrective action or remedial measures, such as establishing ethics training and implementing programs to prevent recurrence.

(11) Whether the contractor or affiliate brought the activity cited as a basis for the debarment to the attention of the appropriate government agency in a timely manner.

(12) Whether the contractor or affiliate has fully investigated the circumstances surrounding the cause for debarment and, if so, made the result of the investigation available to the investigating official or debarment official.

(13) Whether the contractor or affiliate had effective standards of conduct and internal control systems in place at the time the wrongdoing occurred.

(14) Whether the contractor or affiliate has taken appropriate disciplinary action against the individuals responsible for the activity that constitutes the cause for debarment.

(15) Other factors appropriate to the circumstances of a particular case.

[Statutory Authority: RCW 43.19.011, 39.26.200 and 2015 c 44. WSR 18-21-055, § 200-305-030, filed 10/9/18, effective 11/9/18. Statutory Authority: RCW 39.26.200 and 43.19.011. WSR 13-09-069, § 200-305-030, filed 4/17/13, effective 5/18/13.]