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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Tally Teal  
Department of Labor & Workforce Development

**FROM:** Scott Meriwether, Office of the Lieutenant Governor   
465.4081

**DATE:** March 27, 2018

**RE:** Filed Permanent Regulations: Department of Labor & Workforce Development  
  
Department of Labor and Workforce Development regulations re: recommendations from the commissioner of labor and workforce development to the Department of Administration for debarment from public contract eligibility for wilful or aggravated violators of labor laws (8 AAC 100)

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Attorney General File:	JU2017200846
Regulation Filed:	3/23/2018
Effective Date:	4/22/2018
Print:	226, July 2018

cc with enclosures: Linda Miller, Department of Law  
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

The attached 4 pages of regulations, dealing with Recommendations for Debarment from Consideration for Award of Public Contracts are adopted and certified to be a correct copy of the regulation changes that the Department of Labor and Workforce Development adopts under the authority of AS 23.05.010 and AS 23.05.060 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

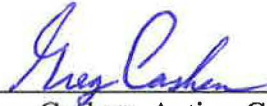
This action is not expected to require an increased appropriation.

In considering public comments, the Department of Labor and Workforce Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date:

1/31/18



\_\_\_\_\_  
Greg Cashen, Acting Commissioner  
Department of Labor and Workforce Development

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

March 23

, 2018, at 145p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



\_\_\_\_\_  
Lieutenant Governor

Effective:

April 22, 2018

Register:

226, July 2018

# MEMORANDUM

DEPARTMENT OF LABOR AND  
WORKFORCE DEVELOPMENT

# STATE OF ALASKA

Commissioner's Office

**TO:** Scott Kendall  
Chief of Staff

**DATE:** December 22, 2017

**FROM:** Heidi Drygas  
Commissioner

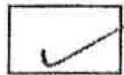
**PHONE:** 465-2700

**SUBJECT:** Acting Commissioner  
PCN 07-1001

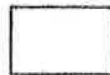
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The Department of Labor and Workforce Development requests that Greg Cashen, Deputy Commissioner, be placed into acting status as the Commissioner for the department while I am out on maternity leave, effective today.

Approval of this request is necessary for the department to effectively manage its programs and accomplish its mission. Maintaining operations is especially critical as we head into the legislative session. Greg has years of service with the department and is best suited to serve in this role.



Approved



Not Approved

Signature: \_\_\_\_\_



Date: \_\_\_\_\_

12/22/17

Register 226, July 2018 LABOR AND WORKFORCE DEV.

8 AAC is amended by adding a new chapter to read:

**Chapter 100. Referrals By Commissioner.**

to the Department of Administration

**Section**

- 10. Reporting labor violations
- 20. Referral to Department of Administration
- 30. Primary contractor referral
- 40. Applicability

**8 AAC 100.010. Reporting labor violations.** (a) When, as a result of an investigation or enforcement action conducted under the authority of any statute administered or enforced by the Department of Labor and Workforce Development, the director of the division responsible for enforcing the statute finds that any person has committed a willful or aggravated violation of the statute or any regulation adopted thereunder, the director shall make a report of that violation to the commissioner.

(b) The director shall consider the violation to be

(1) A violation will be considered willful for purposes of this section if the person committing the violation

(A) has been cited for two or more substantially similar violations within five the preceding years, and those citations have not been contested or have become final and not appealable;



(2) (B) has been formally adjudicated in a judicial or administrative forum as having committed two or more substantially similar violations within the preceding five years;

(3) (C) had actual knowledge of the statutory or regulatory provision being violated <sup>before</sup> committing the violation; or

(4) (D) failed to take reasonable steps to learn of the particular provision violated.

(c) The director shall consider the violation to be aggravated for purposes of this section if  
(2) A violation will be considered aggravated under this chapter if

(1) (A) the violation contributed to the injury or death of <sup>a</sup>any person;

(2) death or injury occurs  
(B) any person was injured or died during a violation of AS 23.30.075;

(3) (C) the person committing the violation failed to timely make any required report to any governmental agency regarding the violation or injury;

(4) (D) the person committing the violation falsified records, concealed records, or took any other action to conceal the violation; or

(5) (E) the person committing the violation transferred assets to any other person or entity to avoid liability or collection of a fine or debt owed because of a violation.

~~(3) If a statute administered or enforced by the Department contains or incorporates a different definition of "aggravated" or "willful," the definitions sections (1) and (2) above shall be used for purposes of this chapter.~~

Register 226, July 2018 LABOR AND WORKFORCE DEV.

(b) The director of <sup>(a)</sup>any division of the department shall make a report to the commissioner of any instance of a person failing to comply with any stop work order or cease and desist order issued under the authority of any statute administered by the department.

(c) If the director of <sup>(a)</sup>any division <sup>(e)</sup>obtains knowledge that <sup>(a)</sup>any person who conducts business within <sup>(this)</sup>the state of Alaska has been debarred or placed on a debarment list by <sup>(a)</sup>any municipal, state, or federal agency, the director shall make a report to the commissioner of this debarment. (Eff. 4/22/2018, Register 226)

Authority: AS 23.05.010 AS 23.05.060 AS 44.31.020

<sup>(the)</sup>  
**8 AAC 100.020. Referral to Department of Administration.** The commissioner may refer <sup>(a)</sup>any person reported under 8 AAC 100.010 to the Department of Administration with the recommendation that the Department of Administration initiate debarment proceedings under The commissioner will make a AS 36.30.635. The recommendation <sup>(will)</sup>shall be in writing, and shall detail the relevant facts and circumstances leading to the recommendation, and to the extent allowed by law <sup>(will include)</sup>be accompanied <sup>(with the recommendation)</sup>by any relevant documents. (Eff. 4/22/2018, Register 226)

Authority: AS 23.05.010 AS 23.05.060 AS 44.31.020

**8 AAC 100.030. Primary contractor referral.** If a subcontractor is eligible for referral for debarment under this chapter, the commissioner may also refer the primary contractor who contracted with the subcontractor if

None more

0.5" Tab 11)

(1)

(a) the primary contractor knew or should have known the subcontractor had a history of committing violations;

None more

0.5" Tab 11)

(2)

(b) the primary contractor assisted or abetted the subcontractor in committing the violation;

None more

0.5" Tab 11)

(3)

(c) the primary contractor knew or should have known about the violation but failed to take any action to abate or report the violation; or

None more

0.5" Tab 11)

(4)

places responsibility for compliance on both

and

(d) the statute or regulation violated by the subcontractor ~~makes~~ the primary contractor responsible for the violation as well. (Eff. 4/22/2018, Register 226)

Authority: AS 23.05.010 AS 23.05.060 AS 44.31.020

**8 AAC 100.040. Applicability.** This chapter does not apply to any violation that could result in debarment under AS 36.05.090 or under AS 23.30.080(e). (Eff. 4/22/2018, Register 226)

Authority: AS 23.05.010 AS 23.05.060 AS 44.31.020