NEW REQUIREMENT FOR CONSTRUCTION AND CONSTRUCTION MANAGEMENT CONTRACTS OVER $100,000

Under a new state policy, for projects financed by MassDevelopment (through bond financing) no contractor or construction manager may be an entity that is “debarred” (that is, not eligible to conduct business with the “debarring” government entity) by The Commonwealth of Massachusetts or the federal government. Because bond-financed projects are not always identified at the time that construction and/or CM contracts are executed, the following now applies to all construction and construction management contracts over $100,000 with respect to projects of at least $1,000,000 in total costs executed on or after February 10, 2014.

1. The Project Manager is responsible for confirming, prior to contract execution, that the contractor (and if applicable, the construction manager) engaged by Harvard is not debarred. The Massachusetts Department of Administration and Finance maintains a website that contains links to the relevant lists of debarred entities. http://www.mass.gov/anf/property-mgmt-and-construction/design-and-construction-of-public-bldgs/vendor-debarment.html

2. All construction contracts and construction management contracts must contain the following language:

   Debarment. The Contractor hereby certifies that (a) it is not listed as debarred or suspended on the debarment lists maintained by The Commonwealth of Massachusetts Division of Capital Asset Management, the Department of Transportation, the Department of Industrial Accidents, the Office of the Attorney General or the Federal government (the “Debarment Lists”) and (b) it will not knowingly solicit or consider bids, contract or negotiate with, or approve a Subcontract with any vendor listed as debarred or suspended on the Debarment Lists.

   All relevant contract forms on the CAPS website have been updated to include this language. http://capitalprojectservices.harvard.edu/icb/icb.do

The project manager and/or other responsible party will be asked to certify compliance with these requirements.
NEW DEBARMENT REQUIREMENTS FOR ALL PROJECT MANAGERS

Frequently Asked Questions

What contracts are covered?

In projects of $1MM or more, the requirement applies to all construction and construction management contracts of over $100,000 entered into directly by the University.

What should the project manager do?

1. Use only an updated form obtained from the CAPS website or from HPPM that contains the required contract language. Do not use forms downloaded prior to January 28, 2014.

   Confirm that your contractor/CM is NOT listed.

What about subcontractors?

You are not obligated to check the debarment list for subcontractor listings, as subcontractors are the responsibility of the general contractor under the new required contract language.

What form of confirmation is required?

As part of the close-out process (or earlier in the project, if required by a bond financing), a project manager and/or other responsible party will be asked to certify compliance with these policies. A sample certification is attached, but may change from time to time depending on State requirements.
DEBARTMENT CERTIFICATION

The undersigned is the _____________________________ responsible for administration of a [construction/construction management] contract by and between ____________________________ [Harvard entity] and ___________________________ (the “Contract”) dated ____________________________ (the “Contract”).

The undersigned certifies that:

1. As of _______________, 20____, the undersigned confirmed, based on the website http://www.mass.gov/anf/property-mgmt-and-construction/design-and-construction-of-public-bldgs/vendor-debarment.html that the Contractor was not, not listed as debarred or suspended on the debarment lists maintained by The Commonwealth of Massachusetts Division of Capital Asset Management, the Department of Transportation, the Department of Industrial Accidents, the Office of the Attorney General or the Federal government; and

3. The Contract contains the following language:

The Contractor hereby certifies that (a) it is not listed as debarred or suspended on the debarment lists maintained by The Commonwealth of Massachusetts Division of Capital Asset Management, the Department of Transportation, the Department of Industrial Accidents, the Office of the Attorney General or the Federal government (the “Debarment Lists”) and (b) it will not knowingly solicit or consider bids, contract or negotiate with, or approve a Subcontract with any vendor listed as debarred or suspended on the Debarment Lists.

Date: _______________________  ________________________________________

Name: