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Volume 3 Edition 1

DCMS Tip Sheet

Happy New Year from DCAMM Contractor Certification!

In this tip sheet we will be discussing the self-performance requirement. What is it and what does it require?

Application Section 3: Personnel

The application addresses the question of self-performance in question 3B:

3.B. Do you self-perform all categories of work for which you are seeking certification? If no, please provide a detailed explanation for any categories of work you do not 100% self perform with your own workers, including the percentage of work that was subcontracted out for each category of work.

The purpose of this question is to ensure that for each Category of Work for which the applicant is seeking certification it is using workers on its payroll to complete that work. For example, roofing contractors cannot sub out the labor on their roofing projects. The roofing installations must be completed with employees on the company payroll.

It is okay to bring on additional labor as needed, but this labor must be paid through company payroll. Labor that is subbed out or paid out as 1099 contractors do not meet the self-performance requirement.

What do the Guidelines Require Regarding Self-Performance?

Section III.A.1.(a)(iii) of both the Prime and Filed Sub-Bidder Guidelines provides:

The work in each category for which certification is sought must have been performed by the applicant's own employees, except for labor and materials customarily supplied by subcontractors to those performing work in such category under current trade practices.

As mentioned in the Guidelines, there are exceptions when some labor may be subbed out. An example of this is when an HVAC contractor must bring in a licensed electrician to complete the temperature control work. Unless the HVAC contractor has a licensed electrician on staff it must bring in outside licensed help to complete this portion of the project. This is acceptable for the purpose of DCAMM Certification.

Other exceptions to the self-performance rule are spelled out in the Guidelines in the definition themselves. See Energy Management Systems (EMS):

10. **Energy Management Systems.** The design and installation of systems or maintenance programs to conserve energy use within a building. This category includes performance-contracting energy saving projects. These projects may include the installation or modification of new and existing equipment which will reduce energy and water consumption associated with heating, ventilation, and air conditioning system, lighting system, building envelope, domestic hot water system, and other energy and water using devices. This category also includes the work associated with monitoring and verifying project savings and the study and/or design of the subject work. Contractors in this category may manage the entire scope of the project and may subcontract portions of the work to others.

As the EMS definition specifically states, the implementation of these energy savings systems may be subbed out and need not be installed by the applicant seeking certification in EMS, so long as the applicant has done the design work and/or monitored the project savings.

Contractors Certified in the Category of General Building Construction need not self-perform the individual subtrades. To meet the self-performance requirement for this Category all supervisory personnel must be on payroll. Sewerage & Water Treatment Plants and Pump Stations are similar to GBC projects as far as self-performance.

Can Contractors Use A Combination of Employees on Payroll and Subbed-Out Labor?

In certain circumstances, DCAMM will allow contractors to use projects that have both in-house labor and labor that has been subbed out towards their certification. Generally, this will only work on larger projects. Applicants must disclose how much labor has been subbed out. The value of the labor by the in-house workers must be valued at \$80,000 for Prime projects, \$50,000 for Small Prime projects and \$20,000 for Filed Sub-Bidder projects.

For contractors who use in house labor for some projects and then use subbed out labor for other projects, these contractors may only use projects where the labor was self-performed towards their certification.

Can Contracts and Labor be Split Between Affiliated Contractors?

In order to meet the self-performance requirement both the labor and the contracts for the projects must reside with the contractor seeking certification. Contractors who use labor from an affiliated company do not meet the self-performance requirement. Conversely, contractors who supply labor to affiliated contractors who hold the contracts for the projects may not be certified by DCAMM.

Stay tuned for the next installment...

If you have any questions do not hesitate to contact Certification at 857-204-1305 or certification.DCMM@mass.gov.

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Reminder: Applications are due 90 days prior to expiration for the current certificate