

Responsible Contractor Guidance

09/16/2025

The Healey-Driscoll Administration is committed to assuring that construction workers receive the full protection of our labor laws, including prohibitions against wage theft and compliance with worker protections. The Administration also is committed to making sure that businesses that violate these laws do not participate in projects that receive Commonwealth funding. The Executive Office of Housing and Livable Communities (“EOHLC”) is adopting the following policies effective immediately, to help assure compliance with these laws on housing development, construction, renovation, remodeling, reconstruction, rehabilitation or redevelopment projects that are funded by the EOHLC programs identified in Appendix A hereto (“Project” or “Projects”).

I. List of Participating Subcontractors¹

The General Contractor² for each Project must maintain an accurate list of all subcontractors performing work on the Project (the “Subcontractor List”). No work shall be done on any Project by a subcontractor not approved by the General Contractor. The General Contractor shall furnish a copy of the Subcontractor List to the Project owner prior to commencement of construction. The General Contractor shall furnish an updated Subcontractor List to the Project owner at least fifteen (15) days following any change in subcontractors on the Subcontractor List. The Project owner shall maintain the Subcontractor List, including all updates, for inspection by EOHLC, its agents and representatives, and the Massachusetts Attorney General’s Office (AGO) at all reasonable times.

II. Certification of Compliance

Prior to performing work on a Project, any construction manager, General Contractor or other lead or prime contractor, or an entity functioning in any such capacity, and any other contractor or subcontractor of any tier or other person that is engaged to perform construction work (hereinafter, collectively and individually, the “Contractor”), must certify the following on a form prescribed by EOHLC (“Certificate of Compliance”):

¹ The term “Subcontractor”, as used in this policy guidance, shall refer to both subcontractors and sub-subcontractors.

² For purposes of this guidance, the term “General Contractor” shall refer to the primary contractor acting as constructor of a project, whether serving as a general contractor or construction manager.

- (a) That the Contractor will: (i) follow all applicable wage and hour laws (including G.L. c. 151, §1, G.L. c. 149, §148, and, only where applicable, G.L. c. 149, §§26–27D), (ii) properly classify employees, and (iii) comply with all other applicable federal and state laws for the protection of workers, including without limitation worker’s compensation, non-discrimination and equal opportunity protections, drug-free workplace requirements, and requirements of the federal Occupational Safety and Health Administration and the Massachusetts Department of Labor Standards.
- (b) That the Contractor or any Subcontractor is not currently debarred by a federal or Massachusetts state agency or authority.
- (c) That the Contractor has not been subject to a federal or Massachusetts state criminal or civil judgment, final administrative determination or debarment by the Massachusetts Attorney General’s Office, Massachusetts Division of Capital Asset Management and Maintenance, Massachusetts Department of Labor, or the U.S. Department of Labor for violations of such laws within the past three (3) years that resulted in a judgment or a finding by such federal or Massachusetts state government agency or authority that such contractor or subcontractor engaged in one or more violations that: (1) resulted in criminal penalties or debarment, (2) were determined to be with specific intent resulting in civil penalties, including any total assessed fine issued in connection to the judgment or administrative finding as well as all damages, in excess of \$15,000, or (3) were determined to be without specific intent resulting in civil penalties, including any total assessed fine issued in connection to the judgment or administrative finding as well as all damages, in a cumulative amount in excess of \$100,000.
- (d) To the extent the Contractor has been in business for fewer than three (3) years prior to the date of submission of the Certificate of Compliance under this section, then the certification shall be for the entire period for which the Contractor has been in existence.

The General Contractor’s executed Certificate of Compliance must be provided to the Project owner with the executed construction contract prior to commencement of their work on the Project.

The General Contractor shall collect the required certification for each Contractor and Subcontractor prior to their commencement of work on the Project. On no less than a monthly basis, the General Contractor shall certify to the Project owner that the General Contractor is collecting certifications for each Contractor and Subcontractor and that the General Contractor and each subcontractor are collecting and maintaining the records required under Section IV.F. of this Guidance. Within fifteen (15) days of completion of work on the Project, as evidenced by issuance of a certificate of occupancy for the Project, the General Contractor shall furnish all Contractor and Subcontractor certifications to the Project owner.

The Project owner shall maintain such certifications for a period of not less than three (3) calendar years following completion of work, as evidenced by issuance of a certificate of

occupancy for the Project. All such records shall be open to inspection by EOHLC, its agents and representatives, and by the AGO at all reasonable times during such period.

III. No Use of Companies Found to have Committed Serious Violations of Wage and Hour or Prevailing Wage Laws

EOHLC believes it is inappropriate for private developers of Projects to utilize Contractors that, at any point during the last three (3) years, have been ineligible to perform work on public buildings or other public works due to being debarred, suspended or decertified. EOHLC further believes it is inappropriate for private developers of Projects to utilize Contractors that have been found by the AGO to have engaged in serious and intentional violations of Massachusetts wage and hour, prevailing wage, and child labor laws. Accordingly, EOHLC is announcing the following requirements, which shall apply to all Projects subject to this Guidance:

Prior to Construction Contract Execution

Prior to commencement of construction, the Project owner shall determine whether the General Contractor appears on any of the following lists:

- i. The [AGO debarment list](#);
- ii. The AGO listing of [civil enforcement actions 7/1/2021–present](#);
- iii. The [listing of debarred, suspended or decertified contractors maintained by the Division of Capital Asset Management and Maintenance](#);
- iv. Businesses on the [Department of Industrial Accidents' debarment list](#);
- v. The [federal government excluded parties list](#).

The Project owner shall not enter into any contract with a General Contractor if within the preceding three (3) years such General Contractor: (i) was added to any of the debarment lists above (regardless of whether such entity remains debarred); or (ii) was subject to a federal or Massachusetts state criminal or civil judgment, final administrative determination by the Massachusetts Attorney General's Office, Massachusetts Division of Capital Asset Management and Maintenance, Massachusetts Department of Labor, or the U.S. Department of Labor for violations of such laws within the past three (3) years that resulted in a judgment or a finding by such federal or Massachusetts state government agency or authority that such contractor or subcontractor engaged in one or more violations that: (a) resulted in criminal penalties or debarment, or (b) was determined to be with specific intent resulting in civil penalties, including any total assessed fine issued in connection to the

judgment or administrative finding as well as all damages, in excess of \$15,000, or (c) was determined to be without specific intent resulting in civil penalties, including any total assessed fine issued in connection to the judgment or administrative finding as well as all damages, in a cumulative amount in excess of \$100,000. The Project owner may rely on the General Contractor's Certificate of Compliance as evidence that the General Contractor has not been subject to any such judgment or final administrative determination within the preceding three (3) years unless the Project owner has reason to believe otherwise.

In addition, the Project owner shall include in its contract with its General Contractor a provision prohibiting participation in the project by any Subcontractor that, within the preceding three (3) years, (i) was added to any of the debarment lists above (regardless of whether such entity remains debarred), or (ii) was subject to a federal or Massachusetts state criminal or civil judgment, final administrative determination by the Massachusetts Attorney General's Office, Massachusetts Division of Capital Asset Management and Maintenance, Massachusetts Department of Labor, and the U.S. Department of Labor for violations of such laws within the past three (3) years that resulted in a finding by such federal or Massachusetts state government agency or authority that such contractor or subcontractor engaged in one or more violations that (a) resulted in criminal penalties or debarment, or (b) was determined to be with specific intent resulting in a civil penalty, including any total assessed fine issued in connection to the judgment or administrative finding as well as all damages, in excess of \$15,000, or (c) was determined to be without specific intent resulting in civil penalties, including any total assessed fine issued in connection to the judgment or administrative finding as well as all damages, in a cumulative amount in excess of \$100,000. The General Contractor and Project owner may rely on any Subcontractor's Certificate of Compliance as evidence that such Subcontractor has not been subject to any such judgment or final administrative determination within the preceding three (3) years unless the General Contractor or Project owner, as applicable, has reason to believe otherwise.

IV. Additional Requirements

All Project owners entering into construction contracts shall require their General Contractors to comply with the following requirements (and include provisions to that effect in their construction contracts):

- a. The General Contractor and all Subcontractors shall, prior to commencing work on the Project, provide a Certificate of Compliance from the Department of Unemployment Assistance issued within the preceding 30 days and a certificate of good standing from the Department of Revenue issued within the preceding 30 days.
- b. The General Contractor must approve all Subcontractors in writing. No entity shall perform work on the project without the knowledge and prior approval of the General Contractor.
- c. Information about workers' rights under applicable laws shall be posted prominently at the job site. These shall include all notices listed at [Massachusetts workplace poster requirements | Mass.gov](#).
- d. The General Contractor and all subcontractors shall obtain worker's compensation insurance, general liability insurance, commercial vehicle insurance and any other insurance required by the Project prior to commencing work on the Project and shall maintain such insurance in effect until final completion of the work.
- e. The General Contractor shall provide payment, performance and lien bonds in form and substance satisfactory to EOHLC prior to commencement of the work.
- f. The General Contractor and all subcontractors shall:
 - i. Collect copies of OSHA cards for every employee within two weeks of the date the employee begins work on the Project.
 - ii. Maintain daily contemporaneous records, which may be electronic or in paper form, that identify when each employee and their contractor/foreman are present at the Project. Records may include punch-in/punch-out systems, timesheet software, or daily sign-in/sign-out sheets identifying when each employee and their contractor/foreman are present at the Project.
 - iii. Collect certified payrolls for all employees based on their normal payroll schedule, whether weekly or biweekly.
 - iv. During construction of the Project, all such documents shall be retained by the General Contractor and made available for inspection by EOHLC, its agents and representatives, and by the AGO, the U.S. Department of Labor, and any other applicable authorities, upon reasonable notice, during business hours. Within fifteen (15) days of completion of work on the Project, as evidenced by issuance of a certificate of occupancy for the Project, the General Contractor shall furnish all such documents to the Project owner.

- g. Upon completion of work on the Project, as evidenced by issuance of a certificate of occupancy for the Project, the General Contractor must certify that the General Contractor, Contractors, and Subcontractors have complied with the requirements of this Guidance and all applicable laws with respect to the payment of wages. Any construction manager, General Contractor or other lead or prime contractor, or an entity functioning in any such capacity, must also certify that all trade Contractors and Subcontractors under the construction manager, General Contractor or other lead or prime contractor have complied with all provisions of this Guidance as well as all applicable laws with respect to the payment of wages.
- h. The Project owner shall retain all such documents and make available for inspection by EOHLC, its agents and representatives, and by the AGO, the U.S. Department of Labor, and any other applicable authorities, upon reasonable notice, during business hours, for a period of three (3) calendar years following final completion of work, as evidenced by issuance of a certificate of occupancy for the Project. The Project owner shall not be responsible for any errors, omissions, or other violations that may be found in such documents that the Project owner did not cause or could not have reasonably prevented.

V. Exemption for Small Projects

Notwithstanding the foregoing provisions of this Guidance, only the following requirements will apply to Projects of twenty (20) or fewer housing units. This exemption does not apply to phased development of Projects that contemplate more than twenty (20) housing units upon final completion of the Project, even if any of the phases will include twenty (20) or fewer housing units.

- a. The General Contractor shall furnish a complete and executed Certificate of Compliance to the Project owner with the executed construction contract prior to commencement of their work on the Project. The Project owner shall maintain such certification for a period of not less than three (3) calendar years from the date of construction completion, as evidenced by issuance of a certificate of occupancy for the Project. All such records shall be open to inspection by EOHLC, its agents and representatives, and by the AGO at all reasonable times during such period.
- b. The General Contractor shall collect the required certification for each Contractor and subcontractor prior to their commencement of work on the Project.
- c. Within fifteen (15) days of completion of work on the Project, as evidenced by issuance of a certificate of occupancy for the Project, the General Contractor shall furnish all Contractor and Subcontractor certifications to the Project owner and certify that they provided the Project owner with Certificates of Compliance for all Contractors and Subcontractors who worked on Project.

- d. The Project owner shall retain all such documents and make available for inspection by EOHLC, its agents and representatives, and by the AGO, the U.S. Department of Labor, and any other applicable authorities, upon reasonable notice, during business hours, for a period of three (3) calendar years following final completion of work, as evidenced by issuance of a certificate of occupancy for the Project.

APPENDIX A

- Federal Low Income Housing Tax Credits (LIHTC)
- Massachusetts State Low Income Housing Tax Credits
- American Rescue Plan Act (ARPA)
- HOME Investment Partnerships Program (HOME)
- HOME American Rescue Plan Program (HOME-ARP)
- National Housing Trust Fund (HTF)
- Affordable Housing Trust Fund (AHTF)
- Housing Stabilization and Investment Trust Fund (HSF)
- Capital Improvement & Preservation Trust Fund (CIPF)
- Housing Innovations Fund (HIF)
- Facilities Consolidation Fund (FCF)
- Community-Based Housing (CBH)
- Transit Oriented Development (TOD)