



CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR
MARTIN J. WALSH

EXECUTIVE ORDER
ESTABLISHING REQUIREMENTS FOR CITY CONTRACTS IN AN EFFORT TO
PREVENT WAGE THEFT

WHEREAS, the practice commonly known as “wage theft”—improperly withholding payment from employees and failing to pay them according to required schedules--harms the well-being of employees, their families, and their communities; and

WHEREAS, low income, immigrant, and limited English proficient workers are most vulnerable to this practice; and

WHEREAS, workers in the hospitality service industry are also vulnerable to this practice; and

WHEREAS, the high cost of wage theft to the City, its business community, and its residents impedes the City’s economic development and growth; and

WHEREAS, requiring City vendors to certify to the City their compliance with federal and state wage law, or to report violations and provide a wage bond, strengthens the City’s ability to hire vendors that treat their employees fairly; and

WHEREAS, prohibiting City departments from contracting with debarred vendors for the period of debarment will help to ensure that City resources are not used to support those vendors debarred for wage law violations; and

WHEREAS, the City desires to ensure that potential and current recipients of licenses issued under G.L. chapter 138 and chapter 140 comply with applicable wage laws;

NOW, THEREFORE, pursuant to the authority vested in me as chief executive officer of the City of Boston by St. 1951, c. 376, § 1.11, and every other power hereto enabling, I hereby order and direct as follows:

BOSTON CITY HALL • ONE CITY HALL SQUARE • BOSTON • MASSACHUSETTS • 02201
617-635-4500 • www.boston.gov

STANDARD CONTRACT PROVISION

1. The following section 11.9 shall be incorporated into the City of Boston's Standard Contract General Conditions (Form CM-11) as of January 1, 2015, and shall apply to every new contract and every renewal term of a contract entered into after that date:

ARTICLE 11--COMPLIANCE WITH LAWS AND PUBLIC POLICY:

11.9 The Contractor certifies that neither it nor any of its subcontractors have been subject to a federal or state criminal or civil judgment, administrative citation, final administrative determination, order or debarment resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act within three (3) years prior to the date of the Contract; or certifies that it has provided copies of any and all of the above to the Official prior to the date of the Contract and any required wage bond or insurance; and certifies that while the Contract is in effect, it will report any instance of the above to the Official within five (5) days of Contractor's receipt. The Contractor agrees and shall require any subcontractor to agree to post in conspicuous places notices to be provided by the City, informing employees of the protections of applicable local, state, and federal law.

CITY PROCUREMENTS

2. The following provisions shall be included in any request for proposals, invitation for bids or request for qualifications issued by the City on or after January 1, 2015:
 1. Prospective vendors must provide the following certifications or disclosures in writing to the Official with their bids or proposals, and, for multi-year Contracts, annually upon the anniversary of the Contract date. Failure to provide the following shall result in rejection of the bid or proposal:
 - a. Prospective vendors must certify that neither they nor any of their subcontractors have been subject to a federal or state criminal or civil judgment, administrative citation, final administrative determination, order or debarment resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act within three (3) years prior to the date vendors submit their bids or proposals; or
 - b. Prospective vendors must disclose any such criminal or civil judgment, administrative citation, final administrative determination, order or debarment and include copy(ies) with their bids or proposals.

c. Prospective vendors are notified that they must report any such criminal or civil judgment, administrative citation, final administrative determination, order or debarment resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act while any of their bids or proposals to the Official is pending and, if awarded a Contract, during the term of the resulting Contract, within five (5) days of vendor's receipt.

d. Prospective vendors that are subject to a state or federal debarment for violation of the above laws, either voluntarily or involuntarily, or that have been prohibited from contracting with the Commonwealth or any of its agencies or subdivisions will be deemed not responsible and their bids or proposals shall be rejected. Such vendors shall be deemed not responsible for the entire term of debarment or other stated time period. During the term of a Contract, upon a finding or order of such debarment or prohibition, the City may terminate the contract.

e. Vendor(s) awarded a Contract that have disclosed a federal or state criminal or civil judgment, administrative citation, final administrative determination, order or debarment resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act within three (3) years prior to the date they submit their bids or proposals, or Vendor(s) awarded a Contract that receive a federal or state criminal or civil judgment, administrative citation, order or final administrative determination resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act during the term of the Contract, and that are not otherwise prohibited from public contracting, may be required by the Official to obtain a wage bond or other form of suitable insurance in an amount equal to the aggregate of one year's gross wages for all employees, based on an average of its total labor costs for the past two years. Such bond must be maintained for the term of the Contract, including any renewal terms or extensions, and proof of such bond must be provided upon request by the Official.

f. Vendor(s) awarded a Contract must post in conspicuous places notices to be provided by the City, informing employees of the protections of this Executive Order and applicable local, state, and federal law.

g. Vendor(s) awarded a Contract that have disclosed a federal or state criminal or civil judgment, administrative citation, final administrative determination, order or debarment resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act within three (3) years prior to the date they submit their bids or proposals and through the Contract term shall furnish their monthly certified payrolls to the Official for all employees working on such Contract.

3. Contracts between the City and the United States or a corporation wholly owned by the government of the United States, or the Commonwealth of Massachusetts, its subdivisions and corporate bodies shall be exempt from this policy.
4. The Boston Licensing Board, in issuing licenses under G.L. c. 138 or G.L. c. 140, may consider whether a potential or current licensee has been subject to a federal or state criminal or civil judgment, administrative citation, order or final administrative determination resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act in determining whether to issue, re-issue, modify, suspend or revoke a license. Licensees that are subject to a state or federal debarment for violation of the above laws, either voluntarily or involuntarily, or that have been prohibited from contracting with the Commonwealth or any of its agencies or subdivisions shall be prohibited from holding, or continuing to hold, licenses issued by the Boston Licensing Board for the entire period of debarment or other stated time period.

All Cabinet Officers, Department Heads and City employees are hereby directed to render such aid and assistance as is required for the implementation of the foregoing policy.

10.23.14
Date



Martin J. Walsh
Mayor of Boston