

Town of Milton

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December 30, 2013

To: All Employees

From: Kristy Rogers, Town Clerk

RE: Vendor Debarment Procurement Policy

A handwritten signature in blue ink that reads "Kristy Rogers". The signature is written over the printed name "Kristy Rogers" in the "From:" line.

Effective January 7, 2014, the attached Internal Procurement Policies and Procedures will be incorporated in the Town of Milton procurement policy. This policy must be followed, when using grant funds, whether Federal, State or other agency. The Debarment Certification (attached) must be completed for every vendor when expending grant funds. Also, attached is the System of Award Management (SAM) and the Excluded Parties List System Search Information, which explains the search procedure.

Should you have any questions, please contact me.



Internal Procurement Policies and Procedures

Federal Debarment

POLICY:

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all vendors and service providers using federal funds, and all sub recipients, certify that the organization and its principals are not debarred (prohibited), suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from doing business with the federal government. Transactions on these funds must be cleared of Federal Debarment before an award is made. Delegated agents will maintain debarment status documents in their department for items purchased within the scope of their delegation.

No vendor contract is to be awarded or purchase made before debarment status has been reviewed and approved.

An agency, government entity, industry or company who knowingly does business with a debarred vendor, risks having its Federal award rescinded and may put future awards in jeopardy.

DEFINITIONS:

"Debarment": Debarment is one of the most serious punishments the federal government can impose on a contractor. A debarred individual or company is listed on the System for Award Management (SAM) website, making it ineligible to receive federal contracts, federally-approved subcontracts, or certain types of federal financial and non-financial assistance and benefits. Debarments last for a set period of time (usually 1 to 3 years) after an investigation suggests wrongdoing and often follow suspension. Suspensions are generally imposed for the period of time it takes to investigate when there is adequate evidence of wrongdoing. Once the investigation is completed, debarment is imposed if there is a preponderance of evidence found.

"Debarment Certification": A statement from a vendor or service provider that their company, and its principals, have not been debarred, suspended, proposed for debarment, declared ineligible, are not in the process of being debarred, or are voluntarily excluded from conducting business with a federal department or agency of the federal government. This certification can take the form of a signed letter, or a signature block within a procurement document.

"Checking debarment status on the web": The process by which an agent checks the federal website (sam.gov) to see if a vendor is on the government list of debarred vendors.

PROCEDURES:

1. The competitive bidding process documents must contain debarment language so vendors and service providers are notified of the debarment requirements, and are provided the format by which they can certify their status. At time of bid, suppliers will be required to certify their debarment status as a mandatory element of the bid or proposal response.
2. Purchases where no bidding document was involved require that the agent check the federal debarment website (sam.gov) for a favorable debarment status before an order is issued if federal funds are being used.
3. Contracts will include a Debarment Certification with a signature block where the contractor can certify their debarment status.
4. For purchases using federal funds where a certification is already on file for the vendor, the federal debarment website (sam.gov) will be checked to verify the vendor's continued favorable debarment status

before an order will be released. When the website is checked, staff must print a copy of the debarment report from the website, and include it with the bidding documents, or file it in the Vendor File in cases where no bidding documents are present.

5. Vendors known to be debarred will have their vendor status changed to "inactive" and "ineligible" in the master purchasing services vendor file.
6. If the vendor does not provide debarment certification, or if the website is checked and the vendor *is* debarred, the purchasing agent will place a hold on the award process and immediately verify the accuracy of the website report by gathering information pertaining to the reasons for debarment from the vendor and sam.gov. Once all information has been gathered, and verified, the agent must summarize and report the findings to the Director of Purchasing Services, and await further award instructions. In any case, awards will not be made for purchases that have federal funding until such time as the supplier is no longer debarred or suspended.
7. If it is determined that the vendor is debarred, the agent will request that administrative support staff make the vendor ineligible and inactivate them in the vendor file. With the approval of the Director, the agent may then award to the next lowest responsible vendor in accordance with established procurement rules.

REASONS FOR DEBARMENT:

Possible reasons a contractor may be debarred include:

- Commission of fraud or criminal offense in obtaining or performing a contract
- Violating antitrust laws related to the submission of offers
- Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating federal criminal tax laws or receiving stolen property
- Intentionally using a false "Made in America" label
- Any action indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a government contractor. Such actions include:
 - Willful failure to perform in accordance with the terms of one or more contracts or a history of such actions
 - Violations of the Drug-Free Workplace Act of 1988
 - Committing unfair trade practices
 - Delinquent federal taxes exceeding \$3,000

The described actions apply to officers, directors, shareholders, partners, employees or other individuals associated with a contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval or acquiescence. The scope also applies to individuals who knew about the conduct and to the other contractor when the misconduct is undertaken by its partner in a joint venture.

Debarment Certification

This certification is required by the regulations implementing 31 U.S.C. 6101, note, E.O. 12549, E.O. 12689, 48 CFR 9.404.

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name

Project Name

Name and Title of Authorized Representative

Signature

Date

Name and Title of Authorized Representative

Signature

Date

System of Award Management (SAM) and the Excluded Parties List System (EPLS) Search Information

Searches for exclusions for award and renewal purposes should be processed through GSA's System for Award Management (SAM) at www.sam.gov.

All entity records from CCR/FedReg and ORCA and exclusion records from EPLS, active or expired, were moved to SAM. You can search these records in SAM. Exclusion records identify those parties excluded from receiving federal contracts, certain subcontracts and from certain types of federal financial and non-financial assistance and benefits. These are also commonly known as "suspensions" and "debarments."

It is not necessary to set up an account to perform EPLS related searches.

Quick Tips for EPLS Search Records:

- Enter the Dun and Bradstreet, Data Universal Numbering System (DUNS) number, company or individual name in the search field. It is recommended that the DUNS number, if known, be utilized for a specific company or sole proprietor to obtain the optimal search results; however, SAM does not have DUNS numbers for all firms listed; therefore, an additional name search should be performed.
- The search results will reflect "Has Active Exclusion?" with a "Yes or No" answer format. The entity does not have an active exclusion submitted in SAM by a federal agency if the answer is "No." Utilize the "Save PDF" to print for the file.
- If "YES," an exclusion record is found, it will display in a box marked "Exclusion" in purple; check the status in the top-right corner of the box. If the status indicates "Active," there is an active exclusion for that entity.

Printing Documentation for File:

It is recommended to use the "Save PDF" option for printing or saving purposes. This format contains a date and time stamp which is required for audit purposes. Use caution utilizing the "Print" function as it does not provide a time stamp, and the local printer must have the date stamp feature active for printing on the document and for audit purposes.

The SAM HELP web page provides assistance with searches in SAM, FAQs, Quick and Full User Guides and Helpful Hints. You can also contact the Federal Service Desk at www.fsd.gov or you can call them at 1-866-606-8220.