



# SUDBURY WATER DISTRICT

## **PROCUREMENT POLICY**

June 30, 2020

Vincent J. Roy, Executive Director

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**1. OBJECTIVE**

The Sudbury Water District (hereafter “District”) has established a Procurement Procedure for all purchasing by the District. The Procurement Procedure is managed by the Executive Director/Chief Procurement Officer (CPO) and is responsible for the procurement of supplies and services on behalf of the District. It is the responsibility of the authorized personnel to secure quality goods and services while promoting fair competition and competitive pricing.

Procurement procedures have been developed to:

- simplify, clarify, and modernize the procedures governing procurement by the District;
- increase public confidence in District procurement procedures;
- ensure the fair and equitable treatment of all persons who offer to provide goods or services to the District;

- provide increased economy in procurement activities and to maximize to the fullest extent practicable the purchasing value of District funds;
- foster effective broad-based competition for the provision of goods and services to the District;
- provide safeguards for the maintenance of a procurement system based on quality and integrity.

## **2. PROCUREMENT PROCEDURE**

The Sudbury Water District is subject to state procurement laws, inclusive but not limited to M.G.L. 30B, 7, 30/39M and 149, and are responsible for meeting all requirements. All purchasing for the District shall follow all procurement procedures as established by the CPO. The CPO, acting on behalf of the District, provides internal support to monitor purchases and ensure procurement practices are in compliance with applicable law(s). The CPO is available to provide guidance and procurement assistance to all District staff, in the development and solicitation of public bids and proposals through quotes, the Invitation for Bid (IFB) and Request for Proposal (RFP) process for the procurement of goods and services, contract administration and monitoring of invoices which follow the contract award.

District employees designated to purchase goods and service for the District are required to follow the District Procurement Policies and follow all M.G.L. Procurement Laws prior to any purchase.

### **General Rules**

- No order for goods or services may be made without an approval from the Operations Manager and/or Executive Director.
- Items must be delivered to a District facility, and not to a private residence or private place of employment; however, items may be picked up rather than delivered.
- Items must be inspected, upon receipt, for condition and quantity; a signed packing slip or document verifying full delivery must be submitted to the designated liaison responsible for the procurement in order for the invoice to be paid.
- Invoices must be submitted to the designated liaison for payment. The invoice should be signed by a staff member who inspected the items to ensure that the packing list matched the items received and that the items were received without damage.

### **Funding**

- Operating budgets are approved at the Annual District Meeting in May each year. Funds are available for the upcoming fiscal year, starting on July 1 and ending on June 30.

### **Process**

- The Executive Director working with the Operations Manager and Foreman determines how to spend its annual operating budget, consistent with the intent of the appropriation and applicable Federal and State laws.
- The Admin Office will verify, before an order is placed with any vendor, that the company has provided all necessary documentation to be allowed to sell to the District (e.g., signed contract, if applicable, W-9 Form, Compliance with Massachusetts Tax Laws, etc.).
- The Assistant Treasurer will review the request to insure that procurement laws have been followed and that there are sufficient funds to pay the resulting bills.
- The Executive Director will authorize the expense, and the Assistant Treasurer will process the invoice for payment.

## **3. OVERVIEW OF PROCUREMENT LAWS**

The type of supply or service, along with the required amount, shall determine what legal

requirements must be met in order for the procurement to be compliant with applicable purchasing laws. Once the need for the procurement has been identified and the nature of the goods and services determined, the applicable procurement must be followed. A majority of purchases will fall into one of the following categories:

- **Procurement of Supplies and Services: M.G.L. c. 30B**

Unless expressly exempt from public bidding under M.G.L. c. 30B, §1, the purchase of any supplies or services by the District, meeting certain monetary thresholds, requires compliance with the procurement procedures contained in M.G.L. c. 30B.

- **Public Works (Non-Building) Construction (with Labor): M.G.L. c. 30, § 39M**

Procurement of a contractor for the construction, reconstruction, installation, demolition, maintenance or repair of a public work requires public bidding. A public works construction project is generally considered any horizontal construction activity that involves any land disturbance, but excluding the construction of a building. ***Please view the Inspector General's charts Exhibit I for an overview of requirements.***

- **Building Construction Contracts: M.G.L. c. 149.** Procurement of a contractor for the construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency is subject to the Filed Sub-Bid Law, M.G.L. c. 149, §44A to 44M.

***Please view the Inspector General's charts Exhibit I for an overview of requirements.***

- **Public Building Projects Design Services: M.G.L. c. 7C, §§ 44-57.** Procurement of design services (Architect/Engineer, etc.), in connection with a public building project are subject to the Designer Selection Law. Design services in connection with a public works construction project are exempt from all bidding requirements as long as the District hires a designer that fits the definition contained in M.G.L. c. 30B, §2. ***Please view the Inspector General's charts Exhibit I for an overview of requirements.***

Our procedures are designed to assure that all procurements are made in an orderly manner and in compliance with all applicable laws and policies. We apply the rules described in this book to all procurements, unless a department can show that there is a compelling reason to do otherwise.

It is important to note at the outset that two sets of rules apply to the District's procurements:

- (1) legal requirements, i.e., those based on state or federal statute or regulation; and
- (2) District's own requirements, i.e., those that are based on District procedures.

Legal requirements cannot be waived; a District procedure, however, may be waived wholly or in part with the written permission of the Executive Director. The District must comply with legal requirements, or its procurements are invalid and any resulting contract is unenforceable. District procedures, however, consists of self-imposed requirements that the District has adopted as a matter of sound business practice. Procedure requirements will always be stricter than legal requirements. Procedure requirements may be waived; legal requirements may not.

The District has no procedure requirements for public works and building construction, so only legal requirements apply.

Not all procurements are covered by these procedures. Procurements of supplies and services, as well as public works and building construction are covered. However, acquisitions and dispositions of interests in real property, and qualifications-based solicitations for Owner's Project Managers and designers.

The principal statutes that apply to procurements under these procedures are M.G.L. c. 30B (supplies and services), M.G.L. c. 149 (building construction) and M.G.L. c. 30, §39M (construction other than buildings, a/k/a "public works" construction), and references to these statutes are made where it is useful or appropriate.

Many forms are referred to in these procedures. Important forms are included as exhibits at the end of this document.

While this document endeavors to answer the basic questions, anticipating them all would be impossible. Please call the District at (978) 443-6602 with any and all questions or comments. For information on procurement issues generally or for questions not addressed in these procedures, consult two manuals published by the Massachusetts Office of the Inspector General: The Chapter 30B Manual, Procuring Supplies, Services, and Real Property (11/16) (supplies and services) and Designing and Constructing Public Facilities (9th ed.) (11/16) (Construction). Both manuals are available in the Executive Director's Office. I expect the manuals to be updated to reflect the changes passed with the Municipal Modernization Act.

### **3.1 PROCUREMENT OF SUPPLIES AND SERVICES (M.G.L. c. 30B)**

Chapter 30B establishes procedures to follow for most agreements for acquisitions of supplies and services, dispositions of surplus supplies, and real property acquisitions and dispositions by local governmental bodies. Most local jurisdictions' agreements with vendors for supplies and services, including agreements to buy, rent, lease, lease-purchase, or otherwise acquire supplies or services, are subject to Chapter 30B. "Supplies" are defined in the law as all property, other than real property, including equipment, materials, and printing and further including services incidental to the delivery, conveyance and installation of such property. "Services" are defined as the furnishing of labor, time, or effort by a contractor, not involving the furnishing of a specific end product other than reports. Who pays is irrelevant to whether a contract is subject to Chapter 30B. The law applies to the total value of the contract when there is an agreement between a local government and a vendor.

**30B CONTRACT VALUE**

<b>0-\$9,999</b>	<b>\$10,000 to \$50,000</b>	<b>\$50,000+</b>
Sound business practices	Use a written purchase description to solicit written quotations from no fewer than 3 persons who customarily provide the supply or service	Sealed bid process (IFB or RFP)

**BID SPLITTING**

No person shall cause or conspire to cause the splitting or division of any procurement for the purpose of evading a requirement of these procedures or any statute.

**3.1.1 PROCUREMENTS ESTIMATED TO COST LESS THAN \$10,000 (OVER THE CONTRACT TERM)**

Procurement of supplies and services estimated to cost less than \$10,000 must be conducted using "sound business practices". "Sound business practices" is defined as "ensuring the receipt of a favorable price by periodically soliciting price lists or quotes." While the definition does not require a formal competitive process for small procurements of less than \$10,000, it requires governmental bodies to ensure that they have received the needed quality of supplies and services at a reasonable price. Sound reasoning could also consist of consideration of quality, experience, or qualifications of vendor providing a service, availability, proximity of service, etc. Therefore, for procurements of goods and services costing less than \$10,000, District Staff must periodically check price lists from competing vendors and purchase goods and services at the lowest available price. The solicitation of quotes when possible is encouraged even for procurements estimated to cost less than \$10,000.

**3.1.2 PROCUREMENTS ESTIMATED TO COST BETWEEN \$10,000 TO \$50,000**

The procurement of supplies and services costing between \$10,000 and \$50,000 will require a written purchase description to solicit at least three written quotations from potential vendors who customarily supply the needed supply or service. Documentation of quotes solicited shall be on a Quote Summary Sheet (**Exhibit A**). The contract must be awarded to the vendor offering the lowest price who meets all of the specifications. A responsive and responsible bidder is defined as a vendor who meets your quality requirements and offers you the lowest price. Advertised notices and sealed submissions are not required. The requisition must be accompanied by an original or scanned and signed Quote Summary Sheet (**Exhibit A**). The department determines how quotes are solicited and when requisitions are submitted. Such purchases may not be made without the issuance of a formal contract agreement by the District. Any purchases made without a formal contract agreement, which are not of an emergency nature, shall not constitute official transactions of the District.

One thing to note when preparing quotes: follow up on quote requests you make by email or fax to make sure they have been received. It is always better to try and obtain at least four or five quotes to have at least three to work with. If you solicit a quote but get no response, document that fact in writing so Procurement knows you have endeavored to obtain at least three quotes. **All requests for quotes should be documented, successful or not.**

For service contracts or construction projects the District must have a signed contract with

the vendor. In general, contracts supplied by our vendors are written for the benefit of the vendor and therefore are not permitted to be used. The District requires that all contract agreements be the District's standard form agreement. A certificate of insurance from the vendor must be included for all service contracts. Refer to **Exhibit F** for an example.

After the contract is signed by the vendor and Executive Director and returned to the Admin Office, the Admin Office will deliver one original to the authorize staff member that originated the procurement, mail one original to the vendor and send the third original to filed in the Executive Director's Office. A fully signed copy of the contract and certificate of insurance liability will be filed in the Admin Office and on saved electronically on the District's Server. The Assistant Treasurer will ensure that the vendors insurance is compliant at the time the contract is executed. Please note it is the responsibility of the originating department to ensure throughout the contract term that the insurance is up to date before and while any work commences.

### **3.1.3 PROCUREMENTS ESTIMATED TO COST OVER \$50,000**

An Invitation for Bids (IFB) and Requests for Proposals (RFP) are used for procurements of \$50,000 or more and are administered in their entirety by the CPO. Unlike requests for quotes, which can be done relatively quickly, IFBs and RFPs will take a minimum of a month from start to finish. An IFB should be used for all procurements of goods and services in circumstances where award to the bidder offering the lowest price is preferred. If the District has determined that consideration of factors other than price is important, a RFP should be used. The RFP process is the only procurement method that allows the District to award a proposal based on what is determined to be in the best interests of the District, taking into consideration both price and the evaluation of criteria set forth in the RFP.

### **3.1.4 IFB/RFP PROCESS**

Although procurements will differ, the District requires that the typical IFB/RFP conform to the following:

1. An IFB or RFP is initiated when consulted with the CPO. Ask the CPO for help to answer any of the required information. The legal ad of all IFBs and RFPs list a Bid number, the Release Date, the Pre-Bid Meeting Date (optional) and the Opening Date. The legal ad is located on the District's server in the Executive Director's procurement folder: if MASSDOT, DCAMM, or other information is incorrect, the advertisement will be incorrect, so please take the time to answer all parts of the Bid Request Form accurately. Also confirm that the account number(s) contain sufficient funds for the procurement. If the account is yet to be funded, please let us know. Incomplete forms will be returned to the department, which may result in a delay in issuing the IFB or RFP.
2. A procurement file is opened, the advertisement is prepared and the procurement is assigned a bid number. The Admin Office's deadline to submit ads is 3:00 p.m. on Tuesday's for the Metrowest Daily (local newspaper), Goods & Services Bulletin or Central Register (state publications), and CommBuys for publication the following week. A notice of the pending bid is also posted the **District Bulletin Board, located in the Customer Service area at the District Office**. The ads and the notice must appear at least 2 full weeks before the IFB or RFP is opened.
3. It is the responsibility of the employee initiating the purchase to include a **detailed scope of work**, specifications and minimum qualification specifics to the bid/contract being



solicited prior to the IFB/RFP being submitted to the Admin Office.

4. Dates for bid release, any pre-bid meeting, and bid opening will then be established. ONLY the CPO sets these dates.
5. The CPO will advertise the project as necessary in the required bulletins, newspaper and COMMBUYS. The funds will be deducted from the initiating.
7. Since the RFP process allows the District to award a contract to someone other than the lowest price proposer, a written explanation is required for justification to the CPO stating the reasons why a low bid IFB is not appropriate for the procurement.
8. If a Pre-Bid Meeting or Mandatory Pre-Bid Meeting is scheduled, the project manager, or someone designated by the project manager, must attend to chair the meeting and respond to questions. A member of the Admin Office will also be present. Although bidders may ask questions and receive answers at a pre-bid, they may not rely on any information provided unless it is a response to a written question submitted to the [Executive Director](#). An addendum will be issued setting forth the questions and the District's answers. This assures that all bidders have the same information and none has an unfair advantage.
9. If, for any reason, a bid must be cancelled that has already been released or even opened, send a notice to the prospective bidders. If the bid will be re-bid without changes, you may use the same Bid Request Form. Otherwise, a new Bid Request Form and a new procurement file number are required.
10. The CPO will receive all questions from potential bidders. Only technical questions will be sent via email to be answered and returned to the CPO so an addendum can be issued.

***It is the responsibility of the Admin Office to perform reference checks on conforming bids or proposals to ensure that vendors or contractors are responsible and responsive.*** Any bids or proposals received from vendors that are deemed to be not responsible or not responsive must be rejected.

\* The Pre-Bid Meeting is an opportunity for potential bidders to see a job site and/or to ask specific questions. Generally, the meeting should not be mandatory unless there is a compelling reason to make it so. If you think there is a compelling reason, provide written justification to the CPO with the Bid Request Form. This is because a mandatory Pre-Bid has the effect of limiting competition since only those attending are eligible to submit a bid. If you are not sure if a Pre-Bid should be mandatory, contact the CPO.

#### **4. PURCHASING THROUGH COOPERATIVE, STATE CONTRACTS, AND FEDERAL CONTRACTS.**

1. Read and comply with the contract user guide instructions for use. User guides for state contracts can be found at <http://www.mass.gov/anf/budget-taxes-and-procurement/procurement-info-and-res/buy-from-a-state-contract/statewide-contract-user-guides.html>. The ***Contract User Guide*** is intended to make it easier for users to understand the components of the contract, make informed decisions and place orders easily. If you have any questions, please contact the Admin Office.
2. Reference the state or contract number when communicating with the seller. State Contract must comply with State Users Guides, must use Commbuys and report use of contracts to the

State.

3. The District may still be required to solicit at least three (3) quotes from contractors even if it is part of the state or cooperative contract. The user guides specify instructions for making purchases.
4. Vendors on state contracts and using cooperative contracts still need to have a written contract with the District which list the state contract number or cooperative contract number and must be signed like any other procurement contract.
5. The originating staff member needs to review the quotes they have received and ensure it correlates with the pricing in the cooperative or state bid. Do not assume the vendor has provided you with the correct pricing.
6. **Federal Contracts;** the District may use GSA but must sign GSA agreement and provide all GSA forms to the Federal Government.

## 5. PREVAILING WAGE

All contracts for public works services or construction contracts require the contractor to pay prevailing wage to their employees. The District must provide the prevailing wage rates with the bid solicitation. The Procurement Office will request the official wage rates based upon the information found on the Bid Request Form. Each prevailing wage rate sheet applies only to the public construction project for which it is issued. Page one of each wage sheet lists the specifics of the rates, be sure to read it for each project. The prevailing wage rates for each construction project are in effect for 90 days from the date of issue. Projects not bid within 90 days of the issued rates will require the awarding authority to request new prevailing wage rates. Once a project has been bid, the prevailing wage rate will apply for the duration of any contracts which result from that bid, except in the case of multi-year projects. *For projects lasting more than one year, the District must contact the Department of Labor Standards (DLS) for updated rates for your multi-year contracts if needed.*

Please ensure that the contractor posts the prevailing wage sheets on-site. The contractor (general and subs) are required to submit weekly payroll reports to the District for the duration of the project. The CPO shall ensure contractors are compliant and maintain such records. Payment of invoices to the contractors should be dependent upon prior receipt of the certified payroll records. Please view M.G.L. for the record retention requirements.

## 6. BIDS PREPARED BY AN ARCHITECT OR ENGINEER

Sometimes the District engages an architect, engineer, or other design professional to handle the procurement. If so, the design professional often prepares the Scope of Work for the District's bid document or they handle entire bidding process. Note that the design professional is not authorized to change the title of the project or modify the bid document without first discussing the modification with the Executive Director. The design professional should send any and all procurements and edits highlighted in the bid document electronically to the Executive Director in one (1) Microsoft Word format file for processing. Any drawings/plans must be sent to the Executive Director in PDF format.

The CPO will add the prevailing wage schedule, and include any new forms so that the new bid document can be posted to our website. Any pre-bid meeting date and time will also be posted to our website along with any DCAMM or MassDOT information provided in the bid.

## 7. ADDENDA

To ensure all potential bidders receive the same information, once a bid document is released, **ALL QUESTIONS** regarding a bid must be directed to the CPO via email to the Executive Director. The CPO will answer administrative and technical questions via an addendum and electronically release it to those on the bid list. Addenda will also be posted on the District's website. Procurements may require more than one addendum.

## 8. SOLE SOURCE PROCUREMENT

"Sole source" procurement is a purchase of supplies or services without advertising or competition. M.G.L. c. 30B, § 7 places strict limitations on sole source procurements. You may make sole source procurements of a supply or service when a reasonable investigation shows that there is only one practicable source for the desired supply or service. Your determination that only one practicable source exists must be made in writing. The essence of the certification is "I have investigated the marketplace and determined there is no benefit to bidding since there is only one vendor that offers what I want."

There is much confusion around sole source procurements. A sole source procurement is not valid "because I like working with this company" or "because we always buy from them."

You may make a sole source procurement of not more than \$50,000 for any supply or service when a reasonable investigation shows that there is only one practicable source. Your determination that only one practicable source exists must be in writing on a Sole Source Request and Declaration Form (**Exhibit B**). It is your responsibility to certify to the CPO that this is the only company that can provide the supply or service you require. The statute requires a written explanation by a District staff member certifying your conclusions.

The Sole Source Request and Declaration Form consists of 3 sections, as follows:

1. Describe the supply/service, the amount and the start and end date for the procurement. For example, if you wish to purchase a \$2,000 Fire Hydrant in November that is the only hydrant with sufficient capacity to flow 2,500 gpm, this would be a one-time purchase in this fiscal year. Your description would be: "Fire Hydrant with a minimum flow capacity of 2,500 gpm your amount would be \$2,000, your start date would be 11/1/2020 and your end date 11/20/2020.
2. Describe your investigation into whether there is another source for this type of fire hydrant. Check the internet, catalogs, pump companies you do business with, etc. Your explanation here would be a summary of the scope of your investigation and your determination that x fire hydrant is the only company reasonably accessible to the District that manufactures a fire hydrant to the District's specifications. Include any other information (e.g., that you need a modification to an existing asset that cannot be supplied by anyone but the original vendor) that limits the scope of your investigation.
3. State the reason(s) for your conclusion that the named vendor is the only practicable source. Your conclusion must be supported by a recent (60 days or less) letter from the manufacturer stating that it is the manufacturer and sole distributor of an item, e.g., a fire hydrant. This letter must be dated, signed and attached to the Declaration form.

If the manufacturer cannot provide this letter because the item is sold through other distributors across the country, it is not a sole source. You would then need to find at least two other vendors and solicit quotes or bids.

You may make sole source procurements of \$50,000 or more for the following:

- Software maintenance
- Procurements from regulated industry companies (i.e., any utility companies subject to regulation by the Department of Public Utilities)

Even though you are allowed to go above \$50,000 when making procurements such as these, you must still follow the procedures set forth above.

For supplies/services over \$50,000 that do not fall into the categories listed above, you must go out to bid, even if you have determined there is only one practicable source.

If your product description is too specific, you may have a proprietary specification which is subject to certain rules. M.G.L. c. 30B, §14. If you think this may be an issue, contact the Procurement Office.

## 9. PROMPT PAY DISCOUNTS (PPDS)

A PPD is a discount a vendor is willing to give in exchange for payment within a specified number of days. We consider PPDs “found money”.

When we put out an RFP or IFB, our standard form asks bidders if they offer a PPD. Most vendors do not offer one, but in some instances the winning bidder does.

It is a good idea to get acquainted with the companies you deal with that offer PPDs and process their invoices quickly.

## 10. VENDOR NUMBERS

Requisitions are created by authorized personnel and submitted to the Assistant Treasurer for approval. A requisition cannot be created without a vendor number. The Assistant Treasurer assigns a vendor number based on the Authorized Staff Member’s request and its submission of the vendor’s IRS Form W-9. Numbers are assigned to vendors, so that all future procurements from that vendor are done under that vendor number.

Before submitting a request, please make sure to check with Assistant Treasurer to see if the person or company for which you intend to file a request already has a vendor number.

A sample of the most recent W-9 (**Exhibit H**), is included in these procedures and is available electronically by request to [the Assistant Treasurer](#).

## 11. TAX EXEMPT CERTIFICATES

There are two types of tax exempt certificates: Form ST-5, Sales Tax Exempt Purchase Certificate and ST-5C, contractors and sub-contractor’s Sales Tax Exempt Purchase Certificate. Both are MassDOR forms that certify that the District is a municipal entity not subject to sales taxes. When a vendor presents our certificate to be used on a District contract, the merchant cannot charge sales tax.

All requests for tax exempt certificates should include the following information:

- Name of the company (vendor requesting the certificate)
- Full address
- Email address, phone # and fax number
- Reason for requesting certificate, i.e. blanket order, contract #, purchase order # or even a single item

All vendors and contractors requesting a ST-2 and/or ST-5 (Certificate of Exemption), will be provided the form by the Assistant Treasurer.

## **12. REQUISITIONS, PURCHASE ORDERS, AND FUNDING**

A requisition is a request by an authorized employee to purchase a specified supply or service. The requisition should have documentation of sound business practice used or the details of the solicitation of quotes, bids or proposals, copy of the contract etc. attached depending on the various types of procurement utilized and the dollar amount.

The CPO is accountable for the complete appropriation of funds at the time of the requisition entry and the availability of funding. After a requisition is approved, it is converted to a purchase order, which is an instruction to a vendor by the District to provide the approved supply or service. The majority of requisitions are converted to purchase orders within 3 days of the creation of requisition by the authorized personnel. Purchase orders initiate procurement; they are not used to pay bills.

### **12.1 ANTICIPATE PURCHASING NEEDS**

All employees are responsible for anticipating needs and services in a timely manner to allow compliance with all procurement laws.

### **12.2 IDENTIFY OPPORTUNITIES TO CONSOLIDATE PURCHASES**

**Office furniture** - All requests for new or replacement office furniture will be forwarded to the CPO for approval before a purchase is undertaken.

**Computer supplies and equipment** - All purchases of computer supplies and computer hardware will be coordinated with the Executive Director and the District's contracted Information Technology (IT) provider, TCG. The Admin Office will maintain a list of computer equipment.

### **12.3 PURCHASE ORDERS**

Upon the award of any contract, a requisition should be entered by the Executive Director or his/her designee to encumber the funds necessary to pay the contract. The purchase order number should be provided to the vendor to be referenced on invoices they submit to the District for payment. If you are using the PO as your contract, the PO must be signed by the vendor and kept on file internally.

### **12.4 BLANKET PURCHASE ORDERS**

Blanket purchase orders may be used in order to avoid issuing a large number of District purchase orders to the same vendor(s) for the same commodities. If more than one item or commodity is to be purchased on a single blanket purchase order, you should award the entire order to the vendor who offers the lowest unit price on the items to be purchased in the largest volumes.

## **13. CHANGE ORDERS AND INCREASES ON ACTIVE CONTRACTS**

It often happens that an estimate does not fully anticipate what will actually be needed under a contract. Fortunately, the statutes allow for adjustments to existing contracts. The rules are different for construction contracts under c. 149 or c. 30, §39M and contracts for supplies and services under c. 30B. Changes to construction contracts are called change orders and they can amend the scope of work and contract price by adding or subtracting work at mutually agreed upon prices. However, if the change is an increase to a set unit-priced (per ton, per hour, and so forth) supply or service, only the quantity but not the unit price can be changed.

### 13.1 INCREASES ON ACTIVE CONTRACTS

Changes to c. 30B contracts are called increases, and they can only increase the **quantity** of the supply or service on the same terms as underlying contract provided that the following four conditions are met:

1. the unit prices remain the same or less;
2. the CPO documents in writing that an increase is necessary to fulfill the actual needs of the local jurisdiction and is more economical and practical than awarding another contract;
3. the parties agree to the increase in writing; and
4. the cost of the increase does not exceed **25 percent** of the contract price

Increases and change orders should not be confused with extensions. Extensions are contractual rights to renew a contract term and are specifically provided for in the initial IFB or RFP.

### 13.2 CHANGE ORDERS

For construction contracts, M.G.L. c. 30, § 39 states that any change to a construction contract can only be made in a written document signed by a person duly authorized by the Executive Director. Change Orders must be signed by the Contractor and forwarded to the District for signature and execution by the Executive Director. The District Accountant signs to verify the funds in the same manner as the original contract. Under no circumstances is it appropriate for any person acting on his or her own to seek to unilaterally modify a construction contract. Any such attempt to modify is of no legal effect and vendors cannot be paid for work done in reliance on the modification. Other consequences are possible liability to the District, a surety's refusal to pay under an invalid contract, or a claim against the person by the contractor for misrepresenting his or her authority.

## 14. PROPRIETARY SPECIFICATIONS

Although the construction, supplies and services bid laws are premised on fair and open competition, they do allow the use of so-called "proprietary" specifications under certain circumstances. A proprietary specification either uses a specific brand name or is written so restrictively that only one vendor or manufacturer can supply the desired service or item. For example, the District may have standard water meter (which it procured through a bid process) and wants to inventory the same brand water meter for replacements and repairs. Because such specifications use a brand name or are written in a way that only one vendor can bid, they are presumptively anticompetitive and the statutes require a written justification for their use. The written justification is to be available to the public on request. Specification that include proprietary items in their IFBs or RFPs must provide the CPO with a signed, credible written justification for their use prior to the bid release explaining why no other description will suffice. (Remember, competitors and vendors have the right to look at it.) If you have not given the CPO the written justification, your bid release may be delayed. Note that even if you use a proprietary specification, you still have to go out to bid.

## 15. DISTRICT CREDIT CARD

The District credit cards are managed by the Assistant Treasurer.

## 16. REAL ESTATE TRANSACTION

The acquisition or disposal of an interest in real property when the value of the interest exceeds

\$35,000 is subject to a competitive procurement process under MGL 30B, sec. 16. There are many important considerations and procedures involved with real estate transactions, and the District shall not proceed with a real estate transaction without first seeking the guidance of the District Counsel.

## 17. SURPLUS PROPERTY

From time to time, the District finds it necessary to dispose of materials, equipment, etc. that are no longer needed or useful. The following procedure outlines the process to be followed in the disposition of surplus items after offered the item(s) for repurposing to within the District. This procedure applies to all items having resale or salvage value regardless of dollar amount. Please note goods owned by the District are never to be given to individuals.

Massachusetts General Laws Chapter 30B, §15 provides for a governmental body to dispose of a tangible supply, no longer useful to the governmental body, but having resale or salvage value. These rules apply to all tangible surplus supplies with a resale or salvage value including motor vehicles, machinery, computer equipment, furniture, and other materials and items.

In order to follow the appropriate steps you must first make a determination of its value. The declared value determines the procedure that must be followed.

### PROCEDURE:

No tangible surplus items owned by the District be sold or otherwise disposed of except upon the written recommendation of the respective Operation Manager to the Executive Director. The written recommendation shall include a specific description (as much detail as possible) of the item to be disposed of including relevant make, model number, serial number, vehicle identification number, etc. The written recommendation is also to include justification/reason for the request.

The Executive Director shall review the written recommendation and make an initial determination of its merits.

Upon the Executive Director's approval, the written recommendation shall be added to a warrant article at the next District Annual meeting or forwarded to the Board of Water Commissioners for final review and approval. As a general rule, surplus is approved for sale or disposal at the District's annual or special District meeting.

After the item has been approved for disposition, please submit the "Surplus Property Form", **Exhibit D** to the Admin Office. Sufficient information and photographs should be provided to allow for inspection of a potential buyer of the surplus item. The form gives the Admin Office the necessary information to offer the item(s) for auction and disposal. The Admin Office will require the list and photographs of the items to sell a minimum of 30 calendar days prior to the items needing to be removed from your site. This timeframe allows for advertising requirements and the buyer time to make payment and pick the item up. Please note, M.G.L. c 30B requires that surplus items above \$10,000 in value be advertised at least 14 calendar days prior to the bid opening or auction closing.

### **Value over \$10,000**

The sale of all surplus items with a value above \$10,000 shall be conducted by sealed bids or public auction in accordance with M.G.L. c 30B.

## Charitable Donations

Surplus items with an estimated net value of \$5,000 or less may be disposed of at less than fair market value to any organization that has an IRS tax exempt status by reason of its charitable nature without District meeting approval.

## Trade-Ins

Surplus supplies can be traded in as part of a Chapter 30B bid or proposal process. However, Chapter 30B does not permit trade-ins as part of a **quote process** unless the value of the supplies is less than \$10,000 and your local jurisdiction's written procedures specify that trade-ins are permissible.

## 18. EMPLOYEE REIMBURSEMENTS

An employee wishing to purchase a supply or service and request reimbursement must first receive authorization from the Executive Director. The Executive Director's prior approval must be attached to the Expenditure Reimbursement Form.

## 19. EMERGENCY PROCUREMENTS

### M.G.L. c. 30 B

Emergencies may require expedited procurements. If the time required to comply fully with Chapter 30B would endanger the health or safety of people or their property due to an unforeseen emergency, you may procure the needed item or service without complying with all of Chapter 30B's requirements. Even under emergency circumstances, however, you must comply with Chapter 30B to the extent possible. For example, if you do not have time to advertise for two weeks, you can shorten the advertising period; or, if you have no time to advertise, you can solicit quotes. You may procure only those supplies or services necessary to meet the emergency. A local jurisdiction may not artificially create an emergency by postponing normal purchases. If you had reason to know in advance that you needed the supplies or services and you failed to act until the need became critical, you will have difficulty justifying an emergency procurement.

Invoking the emergency procedures in the absence of a genuine emergency could invalidate your contract.

For c. 30B procurements, the Admin Office must maintain a record of each emergency procurement, documenting the basis that an emergency exists, the name of the vendor, and the emergency procurement amount. Notice of the emergency procurement must be published as soon as possible to the *Goods and Services Bulletin*. To assure these requirements are met, the Admin Office must receive a copy of a completed and signed **Emergency Procurement Data Sheet**, and example of which is provided as **Exhibit D**, before a requisition is approved.

### M.G.L. c. 149 or M.G.L. c. 30, § 39M

For the emergency procurement of construction services under c. 149 or c. 30, §39M, prior written approval of DCAMM is required. Thus, where a road has collapsed due to a water main break and only an immediate repair will protect life and property, the District must submit a written request explaining the nature of the emergency and what if any steps it will take to get a best value price. DCAMM is both responsive and reasonable in granting waivers as long as the documentation requirements are met. An example letter you may use to request the approval of DCAMM as **Exhibit G**.



## **20. CONTRACT ADMINISTRATION**

A written contract is required by M.G.L. c. 30B, §17 for any procurement costing more than \$10,000. The Executive Director is the only authorized individual to sign contracts on behalf of the District. It is the responsibility of the authorized personnel to provide the CPO with proper specifications for bids or a detailed scope of services setting forth a clear description of goods and services to be procured. The scope of services must be provided before issuing the appropriate procurement document and must be incorporated into the written contract.

Be sure to keep records in your project file on the contractor's performance (pictures, examples of poor performance). Written documents are required to be retained for at least six years from the date of final payment.

### **20.1 MULTI-YEAR CONTRACTS**

M.G.L. Chapter 30 B § 12 (b) Unless authorized at District meeting, the District shall not award a contract for a term exceeding three years, including any renewal, extension, or option.

### **20.2 PROFESSIONAL SERVICE CONTRACTS**

In cases where the District has engaged the services of a professional service firm, or an individual consultant, for an unspecified level of service, detailed statements of time and expenses shall be rendered to the District on a monthly basis. Each statement shall contain the most recent month's detailed charges, and fiscal year-to-date total charges. Invoices for professional services provided under such agreements will not be processed for payment in the absence of detailed time and expense statements.

### **20.3 CONTROL PAYMENTS TO VENDORS**

Payment to vendors shall not be made:

- without a valid purchase order;
- under a contract made in violation of these procedures;
- for a supply or service rendered prior to the execution of a valid contract; and
- in an amount in excess of that authorized by the contract. Ensure all invoices match your contract terms and pricing details. Employees paying invoices must verify that the District is being charged for materials in accordance with the contract.

### **20.4 CONTROL CONTRACT EXTENSIONS AND RENEWALS**

If a contract contains an option for renewal or extension, the exercise of the option shall be at the sole discretion of the Executive Director and shall not be subject to agreement or acceptance by the vendor. No option shall be exercised unless approved by the Executive Director, after reasonable investigation of costs and benefits, that the exercise of the option is more advantageous to the District than alternate means of procuring comparable supplies or services.

## **21. ENVIRONMENTAL PREFERABLE PRODUCTS**

The District encourages environmentally preferable products, i.e., products or services that have fewer negative or more positive effects on human health and the environment when compared

with competing products or services that serve the same purpose. The District encourages bidders to describe, in the space provided on the Bid Form, the environmental attributes of its goods or services throughout the entire life-cycle, including manufacture, use, and disposition. This information may include multiple environmental considerations such as natural resource use, recycled content, energy and water efficiency, greenhouse gas emissions, impact on climate change, packaging, hazardous material use, and health and safety impacts on workers, consumers and the community. If the bidder does not currently assess such attributes, we ask them to please indicate that on the bid form.

Bidders are encouraged also to provide information related to steps they take internally to:

- (a) identify any positive or negative environmental attributes of products or services they offer, as specified above, and
- (b) insure that those attributes are being addressed as part of operations.

Like prompt pay discounts, the District notes any responses at the bid opening; but, does not take environmental sustainability information into account when evaluating bid proposals.

## **22. INVITATION FOR BID (IFB)**

1. If the procurement was done as an IFB the bids will be opened publicly by the CPO or designee who shall read aloud the name of the bidder and the amount of the bid. The CPO or designee shall note the bidders who have presented a bid and the amount of the bid. **LATE BIDS WILL NOT BE ACCEPTED.**
2. After the IFB opening the Admin Office will type and scan the bid tabulation sheet to the CPO and upload the bidders list to the District's website.
3. The CPO will review the lowest bidder's documentation to ensure they are the lowest responsible and responsive bidder. If the lowest bidder is not responsible and or responsive make note of why the vendor is not responsive and/or responsible and proceed to review the next lowest bidder.
4. Once a vendor has been determined, the CPO will notify the other bidders of the winning bidder.
5. The CPO will draft and send a notice of intent-to-award and contracts to the responsive and responsible bidder.
6. Once the vendor has returned the signed contract to the Admin Office, the Admin Office shall send the contract for final signatures to the Assistant Treasurer and Executive Director.
7. After the contract is signed by the vendor and Executive Director, the Admin Office will deliver one original to the authorized personnel that originated the procurement, mail one original to the vendor and send the third original to the Admin Office. A fully signed copy of the contract and certificate of insurance liability will be filed in the Admin Office and electronically filed on the District's Network. The Assistant Treasurer will ensure that the vendors insurance is compliant at the time the contract is executed.
8. All invoices for advertising the IFB will be paid by the requesting department within their appropriate line item.

## **23. REQUEST FOR PROPOSALS (RFP)**

1. If the procurement was handled as a RFP the Admin Office will receive all proposals. After the RFP deadline has passed the CPO shall pick up the non-technical proposals from the Admin Office.
2. The CPO and or review committee shall review the proposals within two to ten business days.
3. After the CPO or designee have reviewed the proposals, selected the most advantageous proposer and completed the RFP evaluation all documents shall be returned to the Admin Office.
4. The Admin Office will draft and send a Notice of Intent of Award to the most advantageous proposer.
5. The Admin Office will update the final contract with the details supplied (amount, scope of work, and specifications).
6. Once the vendor has returned the signed contract to the Admin Office, the Procurement Admin shall send the contract for final signatures by the Assistant Treasurer and Executive Director.
7. After the contract is signed by the vendor and Executive Director, the Admin Office will deliver one original to the authorized personnel that originated the procurement, mail one original to the vendor and send the third original to the Assistant Treasurer's Office. A fully signed copy of the contract and certificate of insurance liability will be filed in the Assistant Treasurers Office and on the District's network server as a PDF. The Assistant Treasurer will ensure that the vendors insurance is compliant at the time the contract is executed.
8. All invoices for advertising the RFP will be paid by the requesting department within their appropriate line item.



## EXHIBIT A

### Quote Summary Sheet

#### Supplies and Services between \$10,000 and \$50,000

Date: \_\_\_\_\_

Quote Item: \_\_\_\_\_

Purchase Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Vendor # 1: Date: \_\_\_\_\_ Time: \_\_\_\_\_ Unit Price: \_\_\_\_\_ Total Price: \_\_\_\_\_

Company Name & Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Vendor # 2: Date: \_\_\_\_\_ Time: \_\_\_\_\_ Unit Price: \_\_\_\_\_ Total Price: \_\_\_\_\_

Company Name & Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Vendor # 3: Date: \_\_\_\_\_ Time: \_\_\_\_\_ Unit Price: \_\_\_\_\_ Total Price: \_\_\_\_\_

Company Name & Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

## EXHIBIT B

### SOLE SOURCE REQUEST and DECLARATION

VENDOR NAME: \_\_\_\_\_ PRICE \$ \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_

You may award a sole-source contract of less than \$50,000 if a reasonable investigation indicates that there is only one practicable source for the supply or service you are procuring. In this case, you need not seek competitive quotes.

**Please describe the supplies or services procured:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Start Date of Procurement Investigation

End Date of Procurement Investigation

\_\_\_\_\_

\_\_\_\_\_

You **may not** make a sole-source procurement of \$50,000 or more except for the following:

1. Software maintenance, library books and educational materials: You may make noncompetitive purchases in any amount for software maintenance; library books; school textbooks; or educational programs, courses or curricula in any media, including educational software, newspapers, serials, periodicals and audiovisual materials, **if you determine in writing**, after reasonable investigation, that there is only one practicable source for the items
2. **Please describe the basis and your investigation for your determination that only one practicable source exists:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**APPROVAL** – I certify that I am not aware of any violation of chapter 268A (ethics issues) regarding this procurement. I am not aware of any potential conflict of interest that I have not already disclosed to the CPO.

\_\_\_\_\_  
Signature of employee completing this form

\_\_\_\_\_  
Signature of Executive Director

**EXHIBIT C****FORM OSD 25  
DECLARATION OF SURPLUS STATE PERSONAL PROPERTY**

Page \_\_\_\_ of \_\_\_\_

Operational Services Division  
State Surplus Property Office  
One Ashburton Place, Room 1017  
Boston, MA 02108

Date: \_\_\_\_\_ Mailing Address: \_\_\_\_\_

Dept. Code \_\_\_\_\_ Org Number: \_\_\_\_\_

Agency Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Storage Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

\* A signature is required certifying that all confidential and personal information data has been removed from all Surplus and worthless property.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Description	Quantity	Age	Condition Code	Original Value	Dept. Inventory #

Revised: 9/13/16

OSD 25

Contact the Surplus Property Program Office at [OSD\\_SSPO@state.ma.us](mailto:OSD_SSPO@state.ma.us) for an Excel spreadsheet you can submit by email.

Sensitivity level - low

Condition Code	Definitions
A-1	New or unused property in excellent condition. Ready for use and identical or interchangeable with new items delivered by a manufacturer or normal source of supply.
A-2	New or unused property in good condition. Does not quite qualify for A-1 (because slightly shopworn, soiled, or similar), but condition does not impair utility.
A-3	New or unused property in fair condition. Soiled, shopworn, rusted, deteriorated, or damaged to the extent that utility is slightly impaired.
E-1	Used property, but repaired or renovated and in excellent condition.
E-2	Used property which has been repaired or renovated and while still in good condition, it has become worn from further use and cannot qualify for excellent condition.
E-3	Used property which has been repaired or renovated, but has deteriorated and is only in fair condition. Further repairs or renovation required or expected to be needed in near future.
O-1	Property which has been slightly or moderately used, no repairs required and still in excellent condition.
O-2	Used property more worn than O-1, but still in good condition with considerable use left before any important repairs would be required.
O-3	Used property which is still in fair condition and usable without repairs; however, somewhat deteriorated, with some parts (or portions) worn and which should be replaced.
R-1	Used property still in excellent condition, but minor repairs required. Estimated cost of repairs would cost no more than 10% of the acquisition cost.
R-2	Used property in good condition, but considerable repairs required. Estimated cost of repairs would be from 11% to 25% of acquisition cost.
S - Salvage	Personal property that has some value in its basic material content, but which is in such condition that it has no reasonable prospect for use for any purpose as a unit and its repair or rehabilitation for use as a unit is clearly impractical.
W - Worthless	Property that has no value at all.
* Estimated Cost:	Actual acquisition cost (original cost) or the agency surplus officer's best estimate of the acquisition cost.
Please Note:	If you code items using the S or W condition code, please list this property on a separate OSD-25 form.

Sensitivity level - low

**EXHIBIT D****SUDBURY WATER DISTRICT****EMERGENCY PROCUREMENT DATA SHEET**

M.G.L. c. 30B, §8

Date:	
Requesting Employee::	
Contractor's or supplier's name:	
Amount of each contract	
Supply or service procured:	
Justification for the need for an emergency procurement:	<p>[Describe the emergency] Due to the water main break in late January 2020, the cost to hire an outside contractor exceeded the 10,000 threshold for soliciting quotations. .</p> <p>[Solution] The District will use sound business practices to obtain prices.</p>

\_\_\_\_\_  
Executive Director Signature\_\_\_\_\_  
Operations Manager Signature\_\_\_\_\_  
Date:\_\_\_\_\_  
Date:

*The Executive Director or his/her designee shall submit a notice of this emergency procurement as soon as practicable to the Goods and Services Bulletin.*



## EXHIBIT E

### SUGGESTED VENDORS / CONTRACTORS LIST

Please inform the Admin Office if you know of any Vendors / Contractors that you would like to receive the final IFB/RFP.

#### PROJECT NAME:

Company Name: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Company Name: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Company Name: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**EXHIBIT F**

**Division of Capital Asset Management and  
Maintenance (DCAMM) Emergency Waiver  
Requests by Public Awarding Authorities**

IN QUALIFYING EMERGENCY SITUATIONS CERTAIN PUBLIC CONSTRUCTION PROCUREMENT LAWS MAY BE WAIVED UNDER G.L. c. 149, §44(A)(4) OR THE ADVERTISING REQUIREMENTS MAY BE WAIVED UNDER G.L. c. 149, §44(J)(6). UNDER THESE LAWS PUBLIC AWARDING AUTHORITIES SEEKING AN EMERGENCY WAIVER MUST RECEIVE WRITTEN APPROVAL FROM THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE (DCAMM).

PLEASE NOTE: Snow removal work alone does not require an emergency waiver. Just as shoveling snow off sidewalks, mowing lawns, removal of downed trees after storms and cleaning buildings is not considered “maintenance” for purposes of G.L. c. 149 §44A et. seq., removing snow from a roof is not considered the type of “maintenance” work subject to G.L. c. 149.

**PUBLIC AWARDING AUTHORITIES REQUESTING AN EMERGENCY WAIVER  
SHOULD:**

Send an e-mail with Emergency Waiver letter request attached to:  
emergencywaivers.dcam@state.ma.us

---

**SAMPLE LETTER**

SUDBURY WATER DISTRICT  
P.O. Box 111  
Sudbury, MA 01776

Date

---

Carol Gladstone, Commissioner (As of July 2016, Verify director at  
time of emergency) Division of Capital Asset Management and Maintenance  
One Ashburton Place, 15th Floor  
Boston, MA 02108  
Attn: Office of the

General Counsel

Dear Ms. Gladstone,

We are seeking a waiver of the bidding requirements of G.L. c. 149, §44A(4), and/or the advertising requirements of G.L. c. 149, §44J(6).

Describe the nature of the extreme emergency and how it creates an immediate threat to the health or safety of people or property;

State how and when the awarding authority became aware of the emergency situation;

Detail the proposed scope of work necessary to preserve the health or safety of persons or property for which the awarding authority is seeking an emergency waiver – include a statement that the scope of work described is the minimum work necessary to alleviate the emergency.

Explain why the time requirements involved in the standard bidding process will not suffice;

To the extent a bid solicitation process is possible, explain that process to be used (maximizing competition - minimum 3 competitive prices); if a bid solicitation process is not possible or cannot meet the minimum standard, then explain why.

The approximate dollar value of the emergency scope of work; and

We acknowledge that the prevailing wage law, bonding requirements and the DCAMM contractor certification requirements (projects over c. 149 building project threshold) apply to this emergency project.

Attached are (letters, reports, orders, etc. from expert consultants and local or state officials) in supportive documentation.

Sincerely,

Title

---

DCAMM will notify us before the end of the next business day whether the request is approved, denied or requires additional information. Please note that when Emergency Waivers are granted, awarding authorities must nevertheless comply with prevailing wage, bonding and DCAMM contractor certification requirements.

For more information go to:

<http://www.mass.gov/anf/property-mgmt-and-construction/info-and-guide-for-municipalities/emergency-waiver-requests-by-public-awarding.html>

# EXHIBIT G



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A :	
INSURED	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

### COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N	N / A			PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

### CERTIFICATE HOLDER

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ACORD 25 (2014/01)

The ACORD name and logo are registered marks of ACORD

## EXHIBIT H

Form <b>W-9</b> (Rev. October 2018) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer Identification Number and Certification</b> ▶ Go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> for instructions and the latest information.	<b>Give Form to the requester. Do not send to the IRS.</b>																																																																								
<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.																																																																										
<b>2</b> Business name/disregarded entity name, if different from above																																																																										
Print or type. See Specific Instructions on page 3.	<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.																																																																									
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate																																																																									
	<input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.																																																																									
	<input type="checkbox"/> Other (see instructions) ▶ _____																																																																									
<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>																																																																										
<b>5</b> Address (number, street, and apt. or suite no.) See instructions.		Requester's name and address (optional)																																																																								
<b>6</b> City, state, and ZIP code																																																																										
<b>7</b> List account number(s) here (optional)																																																																										
<b>Part I Taxpayer Identification Number (TIN)</b> Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> , later. <b>Note:</b> If the account is in more than one name, see the instructions for line 1. Also see <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.																																																																										
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="10" style="text-align: center;"><b>Social security number</b></td> </tr> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> <tr> <td colspan="3"></td> <td style="text-align: center;">-</td> <td colspan="3"></td> <td style="text-align: center;">-</td> <td colspan="3"></td> </tr> <tr> <td colspan="10" style="text-align: center;"><b>or</b></td> </tr> <tr> <td colspan="10" style="text-align: center;"><b>Employer identification number</b></td> </tr> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> <tr> <td colspan="3"></td> <td style="text-align: center;">-</td> <td colspan="7"></td> </tr> </table>			<b>Social security number</b>																							-				-				<b>or</b>										<b>Employer identification number</b>																							-							
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<b>Part II Certification</b> Under penalties of perjury, I certify that:																																																																										
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.																																																																										
<b>Certification instructions.</b> You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.																																																																										
<b>Sign Here</b>	Signature of U.S. person ▶ _____	Date ▶ _____																																																																								
<b>General Instructions</b> Section references are to the Internal Revenue Code unless otherwise noted. <b>Future developments.</b> For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> . <b>Purpose of Form</b> An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.																																																																										
<ul style="list-style-type: none"> <li>• Form 1099-DIV (dividends, including those from stocks or mutual funds)</li> <li>• Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)</li> <li>• Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)</li> <li>• Form 1099-S (proceeds from real estate transactions)</li> <li>• Form 1099-K (merchant card and third party network transactions)</li> <li>• Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)</li> <li>• Form 1099-C (canceled debt)</li> <li>• Form 1099-A (acquisition or abandonment of secured property)</li> </ul> Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN. <i>If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.</i>																																																																										

## EXHIBIT I



### The Commonwealth of Massachusetts

#### Office of the Inspector General

John W. McCormack  
State Office Building  
One Ashburton Place  
Room 1311  
Boston, MA 02108  
Tel: (617) 727-9140  
Fax: (617) 723-2334

July 2018

Dear Local Official:

The Office of the Inspector General (Office) created the following charts for local officials to use as a quick guide on public procurement procedures that must be followed pursuant to the Massachusetts General Laws. Your local rules may establish stricter or additional requirements that you must follow. Contact your chief procurement officer or legal counsel for advice on your local rules and procurement procedures.

The Office updated the charts with changes that are effective June 15, 2018, pursuant to the passage of [Chapter 113 of the Acts of 2018, An Act Providing for Capital Facility Repairs and Improvements for the Commonwealth](#). The charts highlight particular compliance requirements depending on the cost or the nature of your procurement. For example, the charts highlight, where applicable, the requirement for a ten-hour course in construction safety and health approved by the United States Occupational Safety and Health Administration (OSHA). The charts are meant to provide a general overview of the principal public procurement statutes, and are not a substitute for reviewing the statute or obtaining the advice of legal counsel.

The charts include:

- M.G.L. c. 149 – BUILDING CONSTRUCTION CONTRACTS
- M.G.L. c. 30, § 39M, or M.G.L. c. 30B – PUBLIC WORKS (NON-BUILDING) CONSTRUCTION CONTRACTS (WITH LABOR)
- M.G.L. c. 30, § 39M, or M.G.L. c. 30B – CONSTRUCTION MATERIALS PROCUREMENTS (WITHOUT LABOR)
- M.G.L. c. 7C, §§ 44-58 – DESIGN SERVICES FOR PUBLIC BUILDING PROJECTS: Cities, Towns, Regional School Districts and Horace Mann Charter Schools
- M.G.L. c. 30B – PROCUREMENT OF SUPPLIES AND SERVICES

Any suggestions for the charts or questions concerning Chapter 30B (M.G.L. c. 30B) may be directed to this Office by calling (617) 722-8838. Questions concerning M.G.L. c. 149, M.G.L. c. 30, § 39M, and M.G.L. c. 7C may be directed to the Office of the Attorney General by calling (617) 963-2371 or your legal counsel.

Additional information is available from the following sources:

- Prevailing wage rate sheets may be requested online at <http://www.mass.gov/lwd/labor-standards/prevailing-wage-program/> or by calling the Department of Labor Standards at (617) 626-6953.
- *Central Register* advertisements may be submitted to the Secretary of the State's Office online at <http://www.sec.state.ma.us/spr/sprcentral/infosubmit.htm>. The submission deadline is 4:00 p.m. on Thursday for publication the following Wednesday.
- *Goods and Services Bulletin* advertisements may be submitted the Secretary of the State's Office online at <http://www.sec.state.ma.us/sprpublicforms/GSSubmissionform.aspx>. The submission deadline is 4:00 p.m. on Wednesday for publication the following Monday.
- COMMBUYS postings may be completed at [www.commbuys.com](http://www.commbuys.com).

My Office is committed to helping procurement officials comply with the state's procurement laws and make responsible purchasing decisions. Please do not hesitate to contact our Chapter 30B hotline if we can be of further assistance. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Glenn A. Cunha".

Glenn A. Cunha  
Inspector General



July 2018 revision

**M.G.L. c. 149 – BUILDING CONSTRUCTION CONTRACTS**

Estimated Contract Amount	Under \$10,000	\$10,000 to \$50,000	Over \$50,000 to \$150,000	Over \$150,000	Over \$10,000,000
<b>Procurement Procedure</b>	Sound business practices (as defined in M.G.L. c. 30B, § 2). <sup>1</sup>	Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work.	Sealed bids (using M.G.L. c. 30, § 39M).	Sealed bids (using M.G.L. c. 149, §§ 44A – 44J).	Solicit statements of qualifications prior to soliciting sealed bids (using M.G.L. c. 149, §§ 44A – 44J).
<b>Notice/Advertising Requirements</b>	None.	Post a notice at least two weeks before responses are due on 1) your jurisdiction's website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. <sup>2</sup>	Post a notice 1) in your jurisdiction's office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. <sup>3</sup>	Post a notice 1) in your jurisdiction's office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and (3) on COMMBUYS. <sup>5</sup>	Advertise the request for qualifications at least two weeks before responses are due (1) in a newspaper; (2) in the <i>Central Register</i> ; and (3) on COMMBUYS. <sup>5</sup>
<b>DCAMM Certification</b>	No.	No.	No.	Yes. General bidders if more than \$150,000 and filed sub-bidders if more than \$25,000.	Yes. General bidders if more than \$150,000 and filed sub-bidders if more than \$25,000.
<b>OSHA Training</b>	No.	Yes.	Yes.	Yes.	Yes.
<b>Prequalification</b>	No.	No.	No.	Optional. <sup>6</sup>	Yes.
<b>Filed Sub-bids</b>	No.	No.	No.	Yes, if more than \$25,000.	Yes, if more than \$25,000.
<b>Bid Deposit</b>	No.	No.	5% of the value of the total bid.	5% of the value of the total bid or sub-bid.	5% of the value of the total bid or sub-bid.
<b>Payment Bond</b>	No.	50% payment bond if contract is >\$25,000. <sup>7</sup>	50% payment bond.	100% payment bond.	100% payment bond.
<b>Performance Bond</b>	No.	No.	No.	100% performance bond.	100% performance bond.
<b>Prevailing Wage</b>	Yes.	Yes.	Yes.	Yes.	Yes.
<b>Contractor Evaluation</b>	No.	No.	No.	Yes.	Yes.
<b>OSD or Blanket Contract Option</b>	Yes.	Yes.	No.	No.	No.

<sup>1</sup> M.G.L. c. 149, § 44A(2)(A), as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."

<sup>2</sup> M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 218 of the Acts of 2016.

<sup>3</sup> M.G.L. c. 149, § 44I, as amended by Chapter 218 of the Acts of 2016.

<sup>4</sup> M.G.L. c. 149, § 44I, as amended by Chapter 218 of the Acts of 2016.

<sup>5</sup> The advertising procedures listed pertain only to the request for qualifications. Within 14 days of the completion of the prequalification process, you are required to post a notice in your jurisdiction and on COMMBUYS listing those general contractors and subcontractors that have been prequalified. A copy of the notice must be sent via first class mail, postage pre-paid, to all prequalified general and subcontractors along with an invitation to bid. The invitation to bid must have a deadline of at least two weeks. Although you may only consider bids from those general and subcontractors who have been prequalified, the advertising requirements for building construction contracts over \$150,000 apply.

<sup>6</sup> If you decide to use the optional prequalification process for projects over \$100,000, follow the procedures listed in the "Over \$10,000,000" column. (Note: The prequalification threshold was not raised in 2016.)

<sup>7</sup> M.G.L. c. 149, § 29.



July 2018 revision

**M.G.L. c. 30, § 39M, or M.G.L. c. 30B, § 5 – PUBLIC WORKS (NON-BUILDING) CONSTRUCTION CONTRACTS  
(WITH LABOR)**

Estimated Contract Amount	Under \$10,000 M.G.L. c. 30, § 39M	\$10,000 to \$50,000 M.G.L. c. 30, § 39M	\$50,000 or less M.G.L. c. 30B, § 5 Option <sup>1</sup>	Over \$50,000 M.G.L. c. 30, § 39M
Procurement Procedure	Sound business practices (as defined in M.G.L. c. 30B, § 2); <sup>2</sup>	Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work; <sup>3</sup>	Sealed bids.	Sealed bids.
Notice/Advertising Requirements	None.	Post a notice at least two weeks before responses are due on 1) your jurisdiction's website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. <sup>4</sup>	Post a notice at least two weeks before bids are due 1) in your jurisdiction's office, and publish 2) in a newspaper; 3) on COMMBUYS; and 4) in the <i>Central Register</i> . <sup>5</sup>	Post a notice 1) in your jurisdiction's office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. <sup>6</sup>
OSHA Training	No.	Yes.	Yes.	Yes.
Prequalification	No.	No.	No.	Maybe. <sup>7</sup>
Bid Deposit	No.	No.	No.	5% of the value of the total bid.
Payment Bond	No.	50% payment bond if contract is more than \$25,000. <sup>8</sup>	50% payment bond if contract is more than \$25,000. <sup>9</sup>	50% payment bond.
Performance Bond	No.	No.	No.	No.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.
OSD or Blanket Contract Option	Yes.	Yes.	No.	No.

<sup>1</sup> Authorized by M.G.L. c. 30, § 39M(d).

<sup>2</sup> M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."

<sup>3</sup> M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.

<sup>4</sup> M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.

<sup>5</sup> M.G.L. c. 30B, § 5, and M.G.L. c. 9, § 20A.

<sup>6</sup> M.G.L. c. 149, § 44J.

<sup>7</sup> Although M.G.L. c. 30, § 39M, does not mandate a contractor prequalification process, prequalification of bidders by the Massachusetts Department of Transportation is required for contracts of \$50,000 or more (1) if the awarding authority receives State Aid funds under M.G.L. c. 90, § 34; or (2) the work is on a state road, regardless of whether the awarding authority receives State Aid funds under M.G.L. c. 90, § 34.

<sup>8</sup> M.G.L. c. 149, § 29.

<sup>9</sup> M.G.L. c. 149, § 29.

July 2018 revision

**M.G.L. c. 30, § 39M, or M.G.L. c. 30B, § 5 – CONSTRUCTION MATERIALS PROCUREMENTS  
(WITHOUT LABOR)**

Estimated Contract Amount	Under \$10,000	\$10,000 to \$50,000	Over \$50,000	Any Amount
<b>Procurement Procedure</b>	M.G.L. c. 30, § 39M Sound business practices (as defined in M.G.L. c. 30B, § 2). <sup>1</sup>	M.G.L. c. 30, § 39M Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work.	M.G.L. c. 30, § 39M Sealed bids.	M.G.L. c. 30B, § 5 Option <sup>1</sup> Sealed bids.
<b>Notice/Advertising Requirements</b>	None.	Post a notice at least two weeks before responses are due on 1) your jurisdiction's website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. <sup>3</sup>	Post a notice 1) in your jurisdiction's office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. <sup>4</sup>	Post a notice at least two weeks before bids are due 1) in your jurisdiction's office, and publish 2) in a newspaper; 3) on COMMBUYS; and 4) in the <i>Central Register</i> . <sup>5</sup>
<b>OSHA Training</b>	No.	No.	No.	No.
<b>Prequalification</b>	No.	No.	No.	No.
<b>Bid Deposit</b>	No.	No.	5% of the value of the total bid.	No.
<b>Payment Bond</b>	No.	50% payment bond if contract is more than \$25,000. <sup>6</sup>	50% payment bond.	50% payment bond if contract is more than \$25,000. <sup>7</sup>
<b>Performance Bond</b>	No.	No.	No.	No.
<b>Prevailing Wage</b>	No.	No.	No.	No.
<b>OSD Option</b>	Yes.	Yes.	Yes.	No.
<b>Blanket Contract Option</b>	Yes.	Yes.	No.	No.

<sup>1</sup> Authorized by M.G.L. c. 30, § 39M(d).

<sup>2</sup> M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."

<sup>3</sup> M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.

<sup>4</sup> M.G.L. c. 149, § 44J.

<sup>5</sup> M.G.L. c. 30B, § 5, and M.G.L. c. 9, § 20A. (Note: If the procurement will exceed \$100,000, and the materials will be purchased for the purpose of stockpiled inventory and will not be used in conjunction with a specific project, at least two weeks before bids or proposals are due, publish in the *Goods and Services Bulletin*.)

<sup>6</sup> M.G.L. c. 149, § 29.

<sup>7</sup> M.G.L. c. 149, § 29. (Note: If the materials will be purchased for the purpose of stockpiled inventory and will not be used in conjunction with a specific project, you do not need to obtain a payment bond.)

July 2018 revision

**M.G.L. c. 7C, §§ 44-58 – DESIGN SERVICES FOR PUBLIC BUILDING PROJECTS:**  
**Cities, Towns, Regional School Districts and Horace Mann Charter Schools<sup>1</sup>**

Estimated Design Fee (EDF)/Estimated Construction Cost (ECC)	EDF less than \$30,000 or ECC less than \$300,000	EDF \$30,000 or more and ECC \$300,000 or more
<b>Procurement Procedure</b>	None. Recommend soliciting qualifications and prices from at least three designers.	Qualifications-based selection process. Jurisdiction must either (1) set the design fee; or (2) set a not-to-exceed fee limit and then negotiate the fee with the top-ranked designer within the fee limit.
<b>Advertising Required</b>	No.	Advertise in the <i>Central Register</i> and your local newspaper at least two weeks before the deadline for filing applications.
<b>Designer Selection Board<sup>1</sup></b>	No.	No – adopt selection procedure in writing. <sup>2,3</sup>
<b>Designer Application</b>	No.	Yes. See <a href="#">Designer Selection Procedures for Municipalities</a> . Use “Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction (Updated July 2016)”
<b>Designer Evaluation (Submit to DCAMM and Designer Selection Board)</b>	No.	Yes. See <a href="#">Designer Evaluation Forms &amp; Information for Municipalities and Agencies</a>
<b>Registration</b>	Yes.	Yes.
<b>Insurance</b>	No.	At a minimum, the lesser of \$1 million or 10% of the project’s estimated cost of construction. <sup>4</sup>
<b>Prevailing Wage</b>	No.	No.

<sup>1</sup> Executive Departments of the Commonwealth and Commonwealth charter schools are subject to the jurisdiction of the Designer Selection Board when the design fee is \$30,000 or more and the estimated construction cost is \$300,000 or more.

<sup>2</sup> Cities, towns, school districts and Horace Mann charter schools are required to adopt their own procedures for selecting designers for building projects. These procedures must conform to the purposes and intent of the designer selection process as outlined in M.G.L. c. 7C, §§ 44 – 58, and noted herein. See this Office’s [Model Designer Selection Procedures for Municipalities and Other Local Public Agencies](#).

<sup>3</sup> Housing Authorities must follow the procedures established by the Department of Housing and Community Development for the design of state-funded housing. Projects requesting funding from the Massachusetts School Building Authority (MSBA) are subject to MSBA rules.

<sup>4</sup> M.G.L. c. 7C, § 51.



July 2018 revision

**M.G.L. c. 30B – PROCUREMENT OF SUPPLIES AND SERVICES**

Estimated Contract Amount		Under \$10,000	\$10,000 to \$50,000	Over \$50,000
<b>Procurement Procedure</b>	Sound business practices. <sup>1</sup>	Use a written purchase description to solicit written quotations from no fewer than 3 persons who customarily provide the supply or service. <sup>2</sup>	Sealed bids or proposals (M.G.L. c. 30B, §§ 5 or 6).	
<b>Notice/Advertising Requirements</b>	None.	None.	Post a notice 1) in your jurisdiction's office, and, at least two weeks before bids or proposals are due, publish 2) in a newspaper, and 3) on COMMBUYS.	
<b>Award contract to:</b>	Responsible person offering the best price.	Responsible person offering the needed quality of supply or service at the lowest price quotation.	If the procurement will exceed \$100,000, at least two weeks before bids or proposals are due, publish in the <i>Goods and Services Bulletin</i> .	
<b>Written Contract Required<sup>5</sup></b>	No. Keep written records as a best practice.	Yes.	Under § 5, the responsible <sup>3</sup> and responsive <sup>4</sup> bidder offering the best price. Under § 6, the most advantageous proposal from a responsible and responsive proposer taking into consideration price and non-price proposals.	
<b>Maximum Contract Term<sup>6</sup></b>	Three years, unless majority vote authorizes longer.			
<b>OSD Option</b>	Yes.			

<sup>1</sup> M.G.L. c. 30B, § 2, defines sound business practices as “ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.”

<sup>2</sup> M.G.L. c. 30B, § 4, as amended by Chapter 218 of the Acts of 2016.

<sup>3</sup> M.G.L. c. 30B, § 2, defines a responsible bidder or offeror as “a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance.”

<sup>4</sup> M.G.L. c. 30B, § 2, defines a responsive bidder or offeror as “a person who has submitted a bid or proposal which conforms in all respects to the invitation for bids or request for proposals.”

<sup>5</sup> M.G.L. c. 30B, § 17(a), states “All contracts in the amount of \$10,000 or more shall be in writing, and the governmental body shall make no payment for a supply or service rendered prior to the execution of such contract.”

<sup>6</sup> M.G.L. c. 30B, § 12(b), states “Unless authorized by majority vote, a procurement officer shall not award a contract for a term exceeding three years, including any renewal, extension, or option.”