

DIGHTON HOUSING AUTHORITY

Procurement Policy

This Procurement Policy has been adopted by the Dighton Housing Authority (DHA) in order to comply with Massachusetts bidding statutes governing the procurement of supplies and services (MGL c.30B) the Uniform Procurement Act, construction related work (MGL c.149, S44A-H; MGL c.149, S44A1/2; MGL c.149, S44A3/4; MGL c.149, S29; MGL c.149, S26-27A; MGL c.30, S39M) and design services (MGL c.7, S38A1/2), and Federal procurement requirements known as the "COMMON RULE" described at 24 CFR 85.36 and 37 which requires a public entity to utilize the stricter of the two procurement requirement. This procurement policy supersedes any and all previous policies. This policy hereby incorporated by reference all provisions of the above-cited laws and regulations and adheres to the Code of Conduct for Public Employees, consistent with applicable state and federal laws.

I. PROCURING SUPPLIES AND SERVICES

Under Chapter 30B it is the actual bid/contract price and not the awarding authority's estimate which determines the bidding procedures to be utilized for the procurement of supplies and services. Chapter 30B does not allow a jurisdiction to award a contract that exceeds the dollar threshold of the bidding procedure used nor does it allow contract increases to exceed twenty-five percent (25%).

A. Procurement for supplies and services governed by MGL c.30B, the Uniform Procurement Act shall be made in the following manner:

The Dighton Housing Authority (DHA) shall follow MGL c. 30B and all of its components as they relate to the different thresholds (see attached chart).

Statewide Contract List: For goods and services included on the statewide contract list awarded by the state's Operational Services Division (OSD), the Chief Procurement Officer (CPO) or his/her authorized designee may purchase from a statewide contract vendor without any further solicitation or invitation to bid regardless of the dollar amount.

B. Services Exempt from MGL c.30B

(1) In accordance with MGL c30B S1(b)(9), a contract to purchase supplies or services from, or to dispose of supplies to, any agency or instrumentality of the federal government, the commonwealth, or any of its political subdivision is exempt from Chapter 30B procurement requirements.

- (2) In accordance with MGL c30B S1(b)(15), contracts with labor relations representatives, lawyers, designers, or certified public accountants are exempt from Chapter 30B procurement requirements. (For legal services, DHA shall use the Department of Community Development (DHCD) Agreement for Legal Services; for CPA consultants see DHCD Accounting Manual; for Design Services consult DHCD Project Manager.)
- (3) In Accordance with MGL c30B S1(b)(30) a contract for the collection, transportation, receipt, processing or disposal of solid waste, recyclable or combustible materials. (For trash removal DHA shall use the DHCD Service Contract Form.)

C. Emergency Procurements Under MGL c.30B

- (1) If the time required to comply fully with Chapter 30B procurement would endanger the health or safety of people or property due to an unforeseen emergency, the needed supply or service may be procured without comply with Chapter 30B requirements. An emergency procurement form must be submitted as soon as possible to the Goods and Services Bulletin for publication. This process cannot be used for construction related emergency procurements.

D. Sole Source Procurement Under MGL c.30B

- (1) The DHA may make a sole source procurement of any supply or service under \$25,000 when reasonable investigation shows that there is only one practicable source for the required supply or service. This determination that only one practical source exists be in writing (Chapter 30B, Section 7).

II. CONSTRUCTION CONTRACTS BUILDING RELATED – VERTICAL CONSTRUCTION

When construction contracts are procured under the following methods, the DHA shall apply for prevailing wage rates in accordance with MGL c.149 S26-27A regardless of the dollar amount. The DHA shall use the appropriate DHCD Front end document on all state developments.

A. Building related (vertical construction) and site work (horizontal construction) construction projects shall be awarded in the following manner:

The Dighton Housing Authority (DHA) shall follow MGL c.149 and all of its components as they relate to the different thresholds (see attached chart).

III. THE BOARD

- (1) The CPO shall submit all bids and quotes \$5,000 and up at the next regular meeting and the Board must vote to authorize the award of the bid.

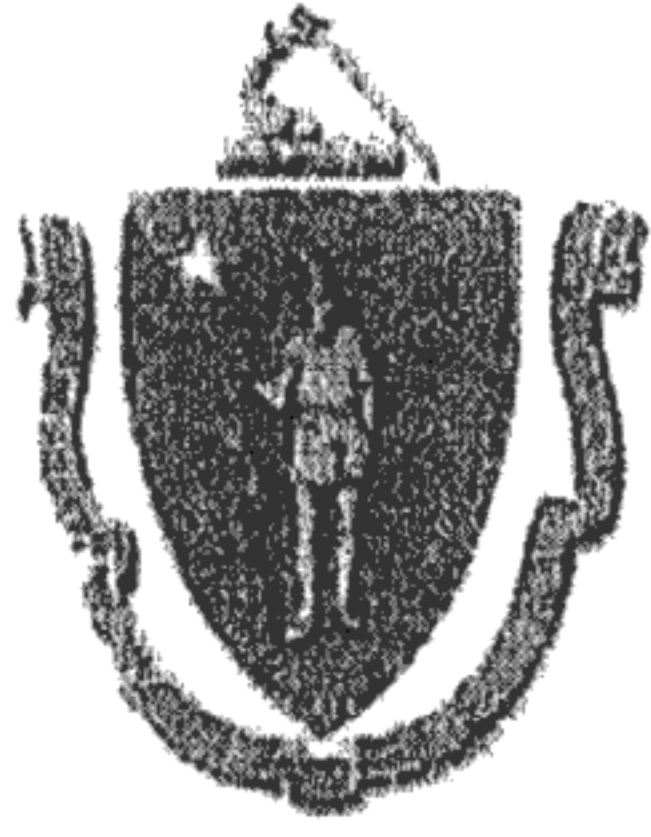
- (2) A CPO may not solicit or award a contract for a term greater than three years, including renewals, extension, or option except for automated laundry or elevator services shall be a term voted by the Board. (No greater than 10 years.)
- (3) A written contract is required for supply and services procurements of \$5,000 or more.
- (4) Applicable rules established by the DHCD and the Department of Housing and Urban Development, and their respective Inspector Generals' shall be adhered to. These procedures and any changes thereto will be submitted to the Board for approval.
- (5) Lack of competition is permissible only when an emergency exists which permits no delay because of the possibility of injury, loss of life, or destruction of property, or when only one source of supply is available and the CPO or his/her designee shall so certify. For the purposes of emergency situations involving construction related work a DCAM waiver shall be required. For supplies and services the Chapter 30B emergency procedures are to be followed.
- (6) Positive efforts shall be made by the CPO to use small minority-owned and women-owned businesses as a source for supplies and services. Such efforts should include developing a bidder's mailing list for those sources, and encouraging these businesses to compete for contracts to be awarded.

IV. DELEGATION OF PROCURMENT OFFICER'S POWERS AND DUTIES

As this relates to MGL c.30B procurements the CPO may delegate his/her powers and duties in accordance with this section to one or more employees at the DHA. A delegation shall be in writing, be signed by the CPO, and state the activity or function authorized and the duration of the delegation. A delegation may be in a specific or general terms, may be limited to a particular procurement or class of procurements, and may be conditioned upon compliance, with specified procedures. A delegation may be revoked or amended whenever the CPO determines that revocation or amendment is in the best interests of the governmental body. A delegation of power or duties by a procurement officer and any revocation or amendment thereof shall not take effect until a copy of the same has been filed with the Office of the Inspector General.

**THE ATTACHED CHART SHALL BE THE GUIDELINES FOR ALL
PROCUREMENT AND ANY UPDATES SHALL SUPERCEDE THE ATTACHED.**

Approved by Board Action at the Tuesday, November 14, 2017, Meeting.



GLENN A. CUNHA
INSPECTOR GENERAL

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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 November 7, 2016, pursuant to the passage of Chapter 218 of the Acts of 2016, *An Act Modernizing Municipal Finance and Government*. 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, §§ 44-57 – 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) 727-3465 or your legal counsel.

NEW LIMITS APPROVED BY BOARD: **11/14/2017**

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/spr/publicforms/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.

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,



Glenn A. Cunha
Inspector General

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

Procurement Procedure	Estimated Contract Amount		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).
	Under \$10,000	\$10,000 to \$50,000				
Notice/Advertisement 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. ²	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. ³	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. ⁴	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. ⁵	
DCAMM Certification	No.	No.	No.	Yes.	Yes. General bidders if more than \$150,000 and filed sub-bidders if more than \$25,000.	
OSHA Training	No.	Yes.	No.	Optional. ⁶	Yes.	
Prequalification	No.	No.	No.	Yes, if more than \$25,000.	Yes.	
Filed Sub-bids	No.	No.	No.	5% of the value of the total bid.	5% of the value of the total bid or sub-bid.	
Bid Deposit	No.	No.	No.	50% payment bond if contract is >\$25,000. ⁷	100% payment bond.	
Payment Bond	No.	No.	No.	100% performance bond.	100% performance bond.	
Performance Bond	No.	No.	No.	Yes.	Yes.	
Prevailing Wage	No.	No.	No.	Yes.	Yes.	
Contractor Evaluation	No.	No.	No.	No.	No.	
OSD or Blanket Contract Option	Yes.	Yes.	Yes.	No.	No.	

¹ 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."

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

³ M.G.L. c. 149, § 44J, as amended by Chapter 218 of the Acts of 2016.

⁴ M.G.L. c. 149, § 44J, as amended by Chapter 218 of the Acts of 2016.

⁵ 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.

⁶ If you decide to use the optional prequalification process for projects over \$150,000, follow the procedures listed in the "Over \$10,000,000" column.

⁷ M.G.L. c. 149, § 29.

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	\$10,000 to \$50,000	Over \$50,000	\$50,000 or less
	M.G.L. c. 30, § 39M	M.G.L. c. 30, § 39M	M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 Option ¹
Procurement Procedure	Sound business practices (as defined in M.G.L. c. 30B, § 2) ²	Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work. ³	Scaled bids.	Scaled bids.
Notice/Advertisement 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. ⁴	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. ⁵	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> . ⁶
OSHA Training	No.	Yes.	Yes.	Yes.
Prequalification	No.	No.	Maybe. ⁷	No.
Bid Deposit	No.	No.	5% of the value of the total bid.	No.
Payment Bond	No.	50% payment bond if contract is more than \$25,000. ⁸	50% payment bond.	50% payment bond if contract is more than \$25,000. ⁹
Performance Bond	No.	No.	No.	No.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.
OSD or Blanket Contract Option	Yes.	Yes.	No.	No.

¹ Authorized by M.G.L. c. 30, § 39M(d).

² 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."

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

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

⁵ M.G.L. c. 149, § 44J.

⁶ M.G.L. c. 30B, § 5, and M.G.L. c. 9, § 20A.

⁷ 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.

⁸ M.G.L. c. 149, § 29.

⁹ M.G.L. c. 149, § 29.

**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
	M.G.L. c. 30, § 39M	Sound business practices (as defined in M.G.L. c. 30B, § 2). ²	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.	
Procurement Procedure	None.						
Notice/Advertisement Requirements		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. ³		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. ⁴		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> . ⁵	
OSHA Training	No.	No.	No.	No.	No.	No.	No.
Prequalification	No.	No.	No.	No.	No.	No.	No.
Bid Deposit	No.	No.	No.	No.	5% of the value of the total bid.	No.	No.
Payment Bond	No.	50% payment bond if contract is more than \$25,000. ⁶	No.	50% payment bond if contract is more than \$25,000. ⁶	50% payment bond.	50% payment bond if contract is more than \$25,000. ⁷	50% payment bond if contract is more than \$25,000. ⁷
Performance Bond	No.	No.	No.	No.	No.	No.	No.
Prevailing Wage	No.	No.	No.	No.	No.	No.	No.
OSD Option	Yes.	Yes.	Yes.	Yes.	Yes.	No.	No.
Blanket Contract Option	Yes.	Yes.	Yes.	Yes.	No.	No.	No.

¹ Authorized by M.G.L. c. 30, § 39M(d).

² 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."

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

⁴ M.G.L. c. 149, § 44J.

⁵ M.G.L. c. 30B, § 5, and M.G.L. c. 9, § 20A.

⁶ M.G.L. c. 149, § 29.

⁷ M.G.L. c. 149, § 29.

M.G.L. c. 7C, §§ 44-57 – DESIGN SERVICES FOR PUBLIC BUILDING PROJECTS: Cities, Towns, Regional School Districts and Horace Mann Charter Schools¹

Estimated Construction Cost (ECC)/Estimated Design Fee (EDF)	ECC \$100,000 or less or EDF less than \$10,000	ECC more than \$100,000 and EDF \$10,000 or more (both ECC and EDF thresholds must be met before the designer selection procedure is required).
Procurement Procedure	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.
Advertising Required	No.	Advertise in the <i>Central Register</i> and your local newspaper at least two weeks before the deadline for filing applications.
Designer Selection Board¹	No.	No – adopt selection procedure in writing. ^{2,3}
Designer Application	No.	Use “Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction (Updated July 2016)”
Designer Evaluation (Submit to DCAMM and Designer Selection Board)	No.	Yes. See http://www.mass.gov/ahf/property-mgmt-and-construction/design-and-construction-of-public-works/designer-selection-process/designer-selection-proc-and-evals-for-municipalities/dsepr-eval-frms-and-info-for-municips-and-pub-agencies.html
Registration	Yes.	Yes.
Insurance	No.	10% of the total cost of the project or \$1 million, whichever is less. ⁴
Prevailing Wage	No.	No.

¹ See The Designer Selection Board’s *Guidelines for City and Town Building Projects*, dated September 2015.

² Executive Departments of the Commonwealth and Commonwealth charter schools are subject to the jurisdiction of the Designer Selection Board when the design fee is \$10,000 or more and the construction project is estimated to cost \$100,000 or more.

³ 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 – 57, and noted herein. See this Office’s *Model Designer Selection Procedures for Municipalities and Other Local Public Agencies*, available at <http://www.mass.gov/publications/guides-advisories-other-publications/model-designer-selection-procedures-municipalities-and-other-local-public-agencies.html>.

⁴ 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.

⁵ M.G.L. c. 7C, § 51.

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

Estimated Contract Amount		Under \$10,000	\$10,000 to \$50,000	Over \$50,000
Procurement Procedure	Sound business practices. ¹	Use a written purchase description to solicit written quotations from no fewer than 3 persons who customarily provide the supply or service. ²	Sealed bids or proposals (M.G.L. c. 30B, §§ 5 or 6).	
Notice/Advertising Requirements	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.	
Award contract to:	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> .	
Written Contract Required⁵	No. Keep written records as a best practice.	Yes.	Under § 5, the responsible' and responsive' 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.	
Maximum Contract Term⁶	Three years, unless majority vote authorizes longer.			
OSD Option	Yes.			

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

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

³ 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."

⁴ 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."

⁵ 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."

⁶ 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."