



The Commonwealth of Massachusetts  
Office of the Inspector General

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Dear Local Official:

The following charts were created by the Office of the Inspector General for local officials to use as a quick reference 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 (CPO) or legal counsel for advice on your local rules and procurement procedures.

The charts highlight particular areas which may require compliance 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). Pursuant to M.G.L. c.30, §39S, any person submitting a bid for, or signing a contract to work on, a public building or public works project estimated to cost more than \$10,000, must certify under the pains and penalties of perjury that he or she is able to furnish labor in harmony with all other elements of labor employed in the work and that all employees employed on the worksite, or in work subject to the bid, have successfully completed at least ten hours of OSHA approved training. The charts are meant to provide a general overview of the principal public procurement statutes, and are not a substitute for the advice of legal counsel.

Any suggestions for the charts or questions concerning 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.7 may be directed to the Office of the Attorney General by calling 617.727.2200 or your legal counsel.

Prevailing wage rate sheets may be requested online at <http://www.mass.gov/dos/pwrequest> or by calling the Division of Occupational Safety at 617.727.3492.

*Central Register* advertisements may be submitted online at <http://www.sec.state.ma.us/spr/sprcentral/infosubmit.htm> to the Secretary of the Commonwealth. The submission deadline is 4:00 pm on Tuesday.

*Goods and Services Bulletin* advertisements may be submitted online at <http://www.sec.state.ma.us/sprpublicforms/GSSubmissionform.aspx> to the Secretary of the Commonwealth. The submission deadline is 4:00 pm on Wednesday.

Sincerely,

A handwritten signature in black ink that reads "Gregory W. Sullivan".

Gregory W. Sullivan  
Inspector General

# M.G.L. c. 149

## BUILDING CONSTRUCTION CONTRACTS

Estimated Contract Amount	Under \$10,000	\$10,000 to \$24,999	\$25,000 to \$100,000	Over \$100,000	Over \$10,000,000
<b>Procurement Procedure</b>	Solicit three written price quotes.	Solicit written price quotes.	Sealed bids (using M.G.L. c.30, §39M procedure).	Sealed bids.	Solicit statements of qualifications.
<b>Advertising Requirements</b>	No.	Advertise once in the <i>Central Register</i> and post a notice on your jurisdiction's bulletin board for at least two weeks before bids are due. Posting on your website or Comm-PASS is optional.	Advertise once in the <i>Central Register</i> and newspaper at least two weeks before bids are due, <b>and</b> post on your jurisdiction's bulletin board or website for one week before bids are due.	Advertise once in the <i>Central Register</i> and newspaper at least two weeks before bids are due, <b>and</b> post on your jurisdiction's bulletin board or website for one week before bids are due.	Advertise the request for qualifications once in the <i>Central Register</i> , newspaper, and Comm-PASS at least two weeks before bids are due. <sup>1</sup>
<b>DCAM Certification</b>	No.	No.	No.	Required for general bidders and filed sub-bidders.	Required for general bidders and filed sub-bidders.
<b>OSHA Training</b>	No.	Yes.	Yes.	Yes.	Yes.
<b>City/Town Prequalification</b>	No.	No.	No.	Optional. <sup>2</sup>	Yes.
<b>Filed Sub-bids</b>	No.	No.	No.	Yes (\$20,000 and over).	Yes (\$20,000 and over).
<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>	50% payment bond, if project cost is more than \$2,000.	50% payment bond.	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.

<sup>1</sup> The advertising procedures listed pertain only to the request for qualifications. Within 14 days of the completion of the prequalification evaluation process, you are required to post a notice in your jurisdiction, and on Comm-PASS listing those general and sub-bidders who have been prequalified. A copy of the notice must be sent via first class mail, postage pre-paid to all prequalified general and sub-contractors along with an invitation to bid. The invitation to bid must have a deadline of at least two weeks. You may only solicit bids from those contractors that have been prequalified.

<sup>2</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.

**M.G.L. c. 30, §39M**

**PUBLIC WORKS (NON-BUILDING) CONSTRUCTION**

<b>Estimated Contract Amount</b>	<b>\$10,000 and under</b>	<b>Over \$10,000</b>
<b>Procurement Procedure</b>	No.	Sealed bids.
<b>Advertising Required</b>	No.	Advertise once in the <i>Central Register</i> and your local newspaper at least two weeks before bids are due, <b>and</b> post a notice on your jurisdiction's bulletin board for one week before bids are due.
<b>DCAM Certification</b>	No.	No.
<b>OSHA Training</b>	No.	Yes.
<b>City/Town Prequalification</b>	No.	No. <sup>1</sup>
<b>Filed Sub-bids</b>	No.	No.
<b>Bid Deposit</b>	No.	5% of the value of the total bid.
<b>Payment Bond</b>	50% payment bond, if project cost is more than \$2,000.	50% payment bond.
<b>Performance Bond</b>	No.	No.
<b>Prevailing Wage</b>	Yes.	Yes.

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

**M.G.L. c.30B alternative procurement procedure referenced from M.G.L. c.30, §39M(d).  
PUBLIC WORKS (NON-BUILDING) CONSTRUCTION**

<b>Estimated Contract Amount</b>	<b>Over \$10,000 up to \$25,000</b>
<b>Procurement Procedure</b>	Sealed bids.
<b>Advertising Required</b>	Advertise once in your local newspaper at least two weeks before bids are due, <b>and</b> post a notice on your jurisdiction's bulletin board for at least two weeks before bids are due. M.G.L. c.9, §20A requires an advertisement in the <i>Central Register</i> .
<b>DCAM Certification</b>	No.
<b>OSHA Training</b>	Yes.
<b>City/Town Prequalification</b>	No.
<b>Filed Sub-Bids</b>	No.
<b>Bid Deposit</b>	No.
<b>Payment Bond</b>	50% payment bond.
<b>Performance Bond</b>	No.
<b>Prevailing Wage</b>	Yes.

# M.G.L. c.7, §§38A½-O PUBLIC BUILDING PROJECTS DESIGN SERVICES

Cities, Towns, Regional School Districts, and Horace Mann Charter Schools<sup>123</sup>

Estimated Construction Cost Design Fee*	\$100,000 or less *	Over \$100,000*
<b>Procurement Procedure</b>	No. Recommend soliciting qualifications and prices from at least three designers.	Qualifications-based selection process. Jurisdiction must either set the design fee or set a not-to-exceed fee limit and negotiate the fee with the top-ranked designer within the fee limit.
<b>Advertising Required</b>	No.	Advertise once in the <i>Central Register</i> <b>and</b> your local newspaper at least two weeks before the deadline for filing applications.
<b>Designer Selection Board</b>	No.	Application.
<b>Designer Evaluation (Submit to DCAM and Designer Selection Board)</b>	No.	Yes.
<b>Registration</b>	No.	Yes, by Board of Registration in the appropriate discipline.
<b>Insurance</b>	No.	10% of the total cost of the project or \$1 million, whichever is less.
<b>Prevailing Wage</b>	No.	No.

\* **Design Fee: The Designer Selection Board recommends that when there is no estimated cost of construction, the designer selection procedures should be followed if the design fee is \$10,000 or more. For practical purposes, the design fee should not exceed 10% of the estimated cost of construction.**

<sup>1</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.7, §§38A½-O and noted herein. See the *Model Designer Selection Procedures for Municipalities and Other Local Public Agencies* developed by this office at <http://www.mass.gov/ig/publ/dsbguide.htm>.

<sup>2</sup> Housing Authorities must follow the procedures established by the Department of Housing and Community Development for design of state-funded housing.

<sup>3</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 \$10,000 or more and the construction project is estimated to cost \$100,000 or more.

## M.G.L. c.30B Procurement of Supplies and Services

Estimated Contract Amount	Under \$5,000	\$5,000 to \$24,999	\$25,000 and over
<b>Procurement Procedure</b>	Sound business practices. <sup>1</sup>	Solicit three written or oral quotes.	Sealed bids or proposals. (M.G.L. c.30B, §§5 or 6).
<b>Advertising Required</b>	No.	No.	Advertise once in a newspaper of general circulation at least two weeks before bids or proposals are due, <b>and</b> post a notice on your jurisdiction's bulletin board or website for two weeks before bids or proposals are due. If \$100,000 or more, advertise once in the <i>Goods and Services Bulletin</i> .
<b>Award contract to:</b>	Responsible <sup>2</sup> person offering a competitive price.	Responsible person offering the lowest price.	Under §5, the responsive <sup>3</sup> and responsible bidder offering the lowest price. Under §6, the most advantageous proposal from a responsive and responsible proposer taking into consideration price and evaluation criteria.
<b>Written Contract<sup>4</sup></b>	No.	Yes.	Yes.
<b>Maximum Contract Term<sup>5</sup></b>	Three years, unless majority vote authorizes longer.	Three years, unless majority vote authorizes longer.	Three years, unless majority vote authorizes longer.

<sup>1</sup> This office interprets sound business practices to mean periodically checking price lists or seeking price quotes to ensure that you are receiving a competitive price for the supply or service.

<sup>2</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>3</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>4</sup> M.G.L. c.30B, §17(a) states “All contracts in the amount of [\$5,000] 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>5</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.”