

Procurement Changes

Overview of the bid law changes effective November 7, 2016

What laws have been impacted?

- Chapter 30B
Supplies and Services
- Chapter 149
Vertical Construction (Building Construction)
- Chapter 30§39M
Horizontal Construction (Site Work)

What do the Changes Impact?

- Changes impact the following:
 - Bid Amount Thresholds
 - Advertising Requirements
 - Bidding Procedures

What you need to ask?

What are you procuring?

Determines the applicable bid law.

How much does it cost?

Determines the appropriate bid law threshold.

M.G.L. c. 30B

Supplies and Services

Under \$10,000

Sound Business Practices-

“Contractor must possess the necessary qualifications, experience and capacity to perform the work and that the contract price reflects the fair market value of work.”

No Advertising.

Award to the responsible entity offering the best price.

Keep written record as a best practice.

M.G.L. c. 30B

Supplies and Services

\$10,000 to \$50,000

- Use a **written purchase description** to solicit **written quotations** from no fewer than 3 persons who customarily provide the supply and service.
- No Advertising.
- Award to responsible entity offering the needed quality of supply or service at the lowest price quotation.
- Written Contract is Required.

M.G.L. c. 30B

Supplies and Services

Over \$50,000

- Sealed Bids or Proposals
- Advertise
 - Post a notice in your jurisdiction's office
 - Post in a Newspaper
 - Post the procurement on COMMBUYS

If the procurement will exceed \$100,000, at least two weeks before bids or proposals are due publish in the *Goods and Services Bulletin*.

30B §5 Award to the responsible and responsive bidder offering the best price.

30B §6 The most advantageous proposal from a responsible and responsive proposer.

Contract term-Maximum of 3 years unless majority vote authorizes longer.

M.G.L. c. 30B

- Responsive Bidder- A person or firm who has submitted a bid that conforms in all respects to the invitation for bids.
- Responsible Bidder - One that has the capability to perform fully the contract requirements, and the integrity and reliability that assure good faith performance.

M.G.L. c. 30B Summary

- MGL 30B
 - Thresholds changed from \$35,000 to \$50,000.
 - Written Solicitation and Quotes between \$10,000 and \$50,000.
 - Add the advertisement to COMMBUYS when the cost is \$50,000 or more.

M.G.L. c.149

Building Construction (with Labor)

Under \$10,000

Sound Business practices as defined in M.G.L. c 30B

Yes Prevailing Wages

No Bid Bonds

No Performance or Payment Bonds

The responsible contractor offering to perform the contract at the lowest price is awarded the contract.

M.G.L. c.149

Building Construction (with Labor)

- \$10,000 to \$50,000
 - Use a written scope of work statement to solicit written responses from no fewer than 3 persons who customarily perform such work
 - Advertise
 - COMMBUYS
 - Central Register
 - LHA Website
 - Conspicuous place near your office

In addition to advertising you are required to solicit at least three written responses from contractors who customarily perform the work.

M.G.L. c.149

Building Construction (with Labor)

\$10,000-\$50,000

- Requirements:
 - DHCD will continue to require 100% performance and payment bonds if the estimated construction cost is greater than \$25,000.
 - OSHA Training
 - Prevailing Wages

M.G.L. c.149

Building Construction (with Labor)

\$10,000-\$50,000

OSD Option

- You are not required to advertise and post the solicitation if you obtain at least two written responses from a vendor list established through a statewide contract procured through OSD and the lowest of these written responses is acceptable to your jurisdiction. Under this option, you are still required to solicit at least one additional written response from a contractor who customarily performs the work required by the contract.

M.G.L. c.149, §44A(2)(C) Building Construction (with Labor)

\$50,000-\$150,000

M.G.L. c.149, §44A(2)(C) requires building construction contracts estimated to cost at least \$50,000 but not more than \$150,000 to be bid in accordance with the competitive bidding procedures set forth in M.G.L. c. 30 §39M, the bid law that applies to contracts for public works construction services and to contracts for construction materials.

M.G.L. c.149 §§ 44A-44J

Building Construction (with Labor)

\$50,000-\$150,000

- DHCD requires 100% performance and payment bonds for projects which are estimated to cost greater than \$100,000.
- DHCD will continue to require contractors be DCAMM certified if the project is estimated to cost greater than \$100,000.00.
- Filed Sub-Bids are not required at this threshold.

M.G.L. c.149 §§ 44A-44J

Building Construction (with Labor)

\$150,000-\$10,000,000

- Invitation for Bids Process
- Advertise
 - Post in COMMBUYS
 - Post in the Central Register
 - Post in a Newspaper
 - Post in a Conspicuous Place near your Jurisdictions Office

M.G.L. c.149 §§ 44A-44J

Building Construction (with Labor)

\$150,000 to \$10,000,000

Requirements

- Bid Deposit

- 100% Performance and Payment Bonds

- DCAMM Certification

- Filed Sub-Bids if over \$25,000

- OSHA Training

- Prevailing Wages

- Contractor Evaluation

M.G.L. c. 30, § 39M

Public Works Construction (with Labor)

Under \$10,000

Sound Business practices as defined in M.G.L. c 30B

Yes Prevailing Wages

No Bid Bonds

No Performance or Payment Bonds

M.G.L. c. 30, § 39M

Public Works Construction (with Labor)

\$10,000 to \$50,000

- Use a written scope of work statement to solicit written responses from no fewer than 3 persons who customarily perform such work
- Advertise
 - Post on COMMBUYS
 - Post in the Central Register
 - Post on LHA Website
 - Post in Conspicuous place near your office

In addition to advertising you are required to solicit at least three written responses from contractors who customarily perform the work.

M.G.L. c. 30, § 39M

Public Works Construction (with Labor)

\$10,000-\$50,000

OSD Option

- You are not required to advertise and post the solicitation if you obtain at least two written responses from a vendor list established through a statewide contract procured through OSD and the lowest of these written responses is acceptable to your jurisdiction. Under this option, you are still required to solicit at least one additional written response from a contractor who customarily performs the work required by the contract.

M.G.L. c. 30, § 39M

Public Works Construction (with Labor)

\$10,000-\$50,000

Requirements:

- DHCD will continue to require 100% performance and payment bonds if the estimated construction cost is greater than \$25,000.
- OSHA Training
- Prevailing Wages

M.G.L. c. 30, § 39M

Public Works Construction (with Labor)

Over \$50,000

- Sealed Bids Process
- Advertise
 - Post a notice in your jurisdiction's office for at least one week before bids are due
 - Post in the *Central Register*
 - Post on COMMBUYS
 - Post in a local Newspaper

M.G.L. c. 30, § 39M

Public Works Construction (with Labor)

Over \$50,000

Requirements

Bid Deposit

OSHA Training

Prevailing Wages

DHCD requires 100% Performance and Payment Bonds

Better Procurement

- Document Document Document
- Backwards plan the project.
- Know your responsibilities.
- Use Qualification Criteria to define the type of contractor you want.

Document!

Written Scopes

Written Quotes

Who you contacted

When you contacted them

Retain all documents!

Backwards Plan

When do you want the project to start?

Estimate 2 weeks prior to that date that the newspaper advertisement and Central Register advertisement need to be posted

Estimate 1 week prior to the advertisements being run, the advertisements need to be placed.

Estimate the time for the contract documents to be completed.

Know your Responsibilities

- Coordinate timeline expectations with your architect/designer.
- Who is responsible for placing the advertisement?
- Who is preparing the contract?
- What documents are needed to complete the package?
- Has the LHA received the correct documents to approve?
- Has the LHA sent a complete set of documents to DHCD?

Insert Minimum Qualifications in your Solicitation