

## **AGENDA: Delegation Training 2023**

- Introductions
- Project Delegation
- Project Requests
- Public Construction Procurements
- DCAMM Guidance and Forms
- Finance and ISAs
- New Deferred Maintenance Forms
- Questions and Answers

## **Delegation Training 2023**

- The Executive Office for Administration and Finance (A&F) has directed the Division of Capital Asset Management and Maintenance (DCAMM) to prioritize Deferred Maintenance/Critical Repair projects statewide and to transfer funds to the highest priority projects.
- Over (the last five) the recent fiscal years, the capital spending plan has included approximately \$90 million yearly for Deferred Maintenance projects at state facilities.
- Most of the projects selected for funding have been delegated to agencies for implementation in several different programs (annual and five year)
- These programs have been designed to provide more autonomy to agencies to plan projects over multiple fiscal years.

## **Delegation Training 2023**

 This training will cover financial and contractual issues associated with the planning and management of delegated projects.

 The primary focus of this training is Deferred Maintenance, but the concepts apply to other projects for which DCAMM delegates control and supervision.

# Transfers vs Spending Caps

- Delegation is the act of transferring responsibility for the control and supervision of a construction project to a state agency.
- The Commissioner of DCAMM may, at his/her discretion, delegate control and supervision of a specific building project provided that the project
  - involves structural or mechanical work and
  - has an estimated construction cost between \$250k and \$5M (\$10M for UMASS campuses).
- Regardless of the funding source, if the estimated cost is between \$250k and \$5M (\$10M UMASS), and the project includes structural, electrical, or mechanical work, delegation is required if the agency wants to assume control and supervision of the project.

## Steps for getting a project delegated

The agency makes a written request addressed to DCAMM's Commissioner and sent to their assigned deferred maintenance liaison.

#### The request must include:

- A description of the project including an estimated total project cost (TPC) including study-design and construction if appropriate.
- Identification of the project manager.
- Confirmation that agency staff overseeing the project have taken and passed the Inspector General's MCPPO training program.
- Identification of the owner's project manager. (For projects over \$1.5M)

#### **Delegation Training 2023**



#### OFFICE OF THE SHERIFF BARNSTABLE COUNTY

The Commonwealth of Massachusetts 6000 Sheriff's Place, Bourne, MA 02532 508.563.4300 Fax: 508.563.4574 BCSO@bsheriff.net



Sheriff James M. Cummings





American Correctional Association June 3, 2021

Carol Gladstone, Commissioner

Division of Capital Asset Management & Maintenance Commonwealth of Massachusetts One Ashburton Place, 15<sup>th</sup> Floor Boston, MA 02108

RE: Barnstable County Correctional Facility - Delegation Authority Request



Commission on Accreditation of Rehabilitation Facilities Dear Commissioner Gladstone:

The Barnstable County Sheriff's Office (BCSO) respectfully requests delegation authority for the following project at the Barnstable County Correctional Facility (BCCF) for which we've submitted a study for certification and funding to our DCAMM liaison:

 SDC1951 – J226703 ECC: \$1,378,851.74 TPC: \$1,759,751.91 Security System Upgrade Study dated May 12, 2021 by Strekalovsky Architecture Incorporated Study submitted to DCAMM: June 3, 2021

<u>Project Management</u>. Our House Doctors, Strekalovsky Architecture, were obtained through the Commonwealth's Designer Selection Board and will see the subject project through design, bid and construction to completion. In addition, the Assistant Deputy Superintendent of Facilities Maintenance at the BCSO is a Third Assistant Engineer with 33 years of experience in facilities maintenance and construction and will be the Project Manager for all BCSO projects. Other staff members of the BCSO will be involved in various aspects of the project as well.

<u>Procurement</u>: Sharon Rogers is a Massachusetts Certified Public Purchasing Officer through the Massachusetts Inspector General's MCPPO Program and will oversee all projects for compliance with procurement laws.

Your assistance in allowing the delegation of authority for the BCSO to move forward with this project is greatly appreciated. If you require any further information or clarification relative to the foregoing, please feel free to give me a call.

I look forward to hearing from you.

Very truly yours,

James M. Cummings, Sheriff

Cc: Thomas Tagan, Director of Facility Resources Michele Davis, Resources Project Coordinator

NTEGRITY PROFESSIONALISM COMPASSION TEAMWO

BARNSTABLE - BOURNE - BREWSTER - CHATHAM - DENNIS - EASTHAM - FALMOUTH - HARWICH MASHPEE - ORLEANS - PROVINCETOWN - SANDWICH - TRURO - WELLFLEET - YARMOUTH

#### Example Delegation Letter

- Project Information
  - Scope of Work Name and Description
  - State Project Number
  - CAMIS J Number
  - Estimated Construction Costs
  - Construction and Procurement Managers



Delegation Training 2023 Superior Super

## The DCAMM Deferred Maintenance Program addresses the capital repair needs of Commonwealth facilities for these types of projects:

- Boiler repair/replacement
- HVAC repair/replacement
- Plumbing repair/replacement
- Exterior/interior repair
- Roofing repair/replacement
- Fire alarm/security systems
- Electrical systems
- Elevator repairs/replacement
- Accessibility improvements

#### **Projects Not Eligible for Deferred Maintenance Funding**

- Programmatic changes
- Capital Project (full and partial renovations, new construction, comprehensive upgrade/modernization, and any project with an ECC over \$5M)
- Study / Testing / Preventative Maintenance Planning (for example: Arcflash, Electrical current testing, Preventive Maintenance Plans, etc.)
- Warped/stained ceiling tile (unless part of another deferred maintenance item)
- Dirty/outdated/ stained flooring unless safety issue
- Annual maintenance allowance, refinishing or painting, upgrades for LED Lighting, upgrading control systems, comprehensive replacement of flooring, Tel/Data infrastructure, Kitchen equipment, Labeling and insulation of pipe, Furnishing / clock systems
- Signage (except as it pertains to accessibility)

 Facility Condition Assessments (FCA's) have been conducted for facilities at the following agencies: Department of Corrections, Sheriff's Departments, Military Division, State Police, Higher Education (Universities and Community Colleges), and the Trial Courts

 The data collected during these FCA's was used to populate facility deficiencies into the Capital Asset Management Information System (CAMIS)

 The estimated value of identified deferred maintenance deficiencies totals billions of dollars across the Commonwealth of Massachusetts

Agencies must use CAMIS to:

 Request funding for Deferred Maintenance Projects

 Post all data that supports EXISTING and NEW requests for Deferred Maintenance funding

## **Request Process**

Instructions/Webinar for Higher Ed campuses\*

Deferred Maintenance - Higher Ed FY24-28 Five Year Planning in CAMIS

Instructions/Webinar for Non-Higher Ed agencies\*

Deferred Maintenance - FY23 Process Webinar

\* Note: Important dates/deadlines mentioned may be out of date and are updated to current year



## **Delegation Training 2023 – Deferred Maintenance – Yearly Process**

- Once annually (usually late April) DCAMM-OFMM sends written notice to the Secretariat offices of the Commonwealth that the annual Deferred Maintenance funding process is about to begin
- The process is detailed step by step with instructions on actions to take, specifically referring to CAMIS
- The notice also identifies critical deadlines for the Deferred Maintenance funding process

## **Delegation Training 2023 –** Deferred Maintenance – 5 Year Process

- Agencies create proposed Five-Year plans in CAMIS
- When the Capital Investment Plan (CIP) is approved sometime near the end of the prior fiscal year some agencies are informed of a spending cap for the upcoming fiscal year.
- This process is also detailed step by step with instructions on actions to take, specifically referring to CAMIS

- Every form of building system maintenance and repair is considered "Construction"
- Construction Procurement laws apply
  - Major Steps
    - 1. Delegation
    - 2. Study
    - 3. Study Certification
    - 4. Design
    - 5. Construction

## Study

- A Study is the first step in any construction project that has an estimated construction cost of \$300,000 or more and a Design fee of \$30,000 or more.
- A Study identifies the best solution to address a specific building deficiency that can be resolved through a Deferred Maintenance-funded project.
- Simple or complex projects can all benefit from a study
- Certification\*

## **Important Study Template Reference Documents**

#### **Study Template**

Deferred Maintenance - New Study Template

#### **Study Template Instructions**

<u>Deferred Maintenance - New Study Instructions</u>

#### **Study Template Presentation**

<u>Deferred Maintenance - New Study Template Presentation</u>

#### **Study Template Webinar**

Deferred Maintenance - New Study Template Webinar



#### What's NEW and UPDATED

- **NEW** Energy Considerations (E.O. 594) and Resiliency Checklist
- **UPDATED** format & layout of template
- UPDATED Instructions packet for a clear explanation of requirements
- *UPDATED* Designer Fee Guidelines 2022
- **UPDATED** 2022 Scoping Form for MAAB Compliance

**REMINDER** – Facilities Managers are responsible for reviewing the study and all documents submitted to DCAMM for certification.

## **Study Certification**

- The certification of a study indicates that the recommendations made are, in fact, the best solution to a particular deficiency, that the scope of the project is consistent with the goals of the agency, and that sufficient funds are available to complete the design and construction phases.
- Certification of a study is approved and signed by the Commissioner of DCAMM.
- Following certification, funds can be allocated for design and construction.

## **Study Tips/Rules**

Please ensure that the House Doctor for each project completes the study according to the instructions provided in the study template, and that <u>you review each study for conformance before submittal</u>. Studies submitted for certification with missing information will be returned for corrections by the House Doctor, which may result in additional design fees.

## **Funding**

- Upon approval of your Deferred Maintenance project, your agency will be sent the funds to execute the study if needed or design and construction if no study needed
- Fund transfers occur via an ISA, interdepartmental service agreement
- Initiate cost projection reporting
- Use the funds to secure a design (after study certification if needed)
- Conduct a procurement and award to vendor
- Maintain a construction file with all required documents.
- Upon completion of the project, submit final cost projection report and return all surplus funds to DCAMM

## **Accountability**

- Funds transferred for a deferred maintenance project can only be expended on that specific project.
- Agencies must not use transfer funds for any other project other than those approved by DCAMM.
- All unspent funds must be returned to DCAMM.
- Construction Checklist attached to project in CAMIS

#### **Cost Projection Reports**

All new or existing transfer projects require cost projection reports to be updated in CAMIS every quarter:

#### **Cost projection reporting Higher Ed facilities:**

Deferred Maintenance - Cost Projection Report Training Higher Ed

**Cost Projection reporting non-Higher Ed facilities** 

<u>Deferred Maintenance - Cost Projection Report Training non Higher Ed</u>

**Cost Projection reporting refresher** 

Deferred Maintenance - Cost Projection Report Refresher

Your DCAMM-OFMM liaison assigned to support your agency can assist you in completing this report

#### **Deferred Maintenance Liaisons**

Scott Calisti – DHE Liaison scott.calisti@mass.gov

Michael Arcadipane – Community Colleges Liaison michael.arcadipane@mass.gov

Michele Davis – EOPPS, Sheriff's Offices Liaison

michele.davis@mass.gov

Tan Nguyen – EOHHS, EOEEA, EOLWD, MA SEC, UMass Campuses Liaison tan.nguyen@mass.gov

Azinga Ming – Trial Courts, State Universities Liaison azinga.ming@mass.gov

Tom Tagan - Director of Facility Resources francis.tagan@mass.gov



## **Questions and Answers**





# Need to Knows of Public Construction Procurement

Susan Goldfischer, Deputy General Counsel, DCAMM

#### **AGENDA**

- Introduction & Background
- Public Bidding Thresholds & Process Overview
  - Designer Selection
  - Bidding Requirements
- Contractor Certification & Evaluation
- Prequalification & CM at Risk Overview
- Prevailing Wage
- Emergency Procurements for Construction Services
- Competitive & Legally Compliant Specifications
- Access & Opportunity/Affirmative Marketing Program MBE/WBE Businesses, Minority & Women Workforce, Veterans
- Questions and Answers

Valuable Resources: Inspector General's Handbook "Designing and Constructing Public Facilities" Updated 2021) & the IG's Procurement Charts available on the IG's website <a href="www.mass.gov/ig">www.mass.gov/ig</a>



Dept.of Fish & Wildlife Hqtrs. - Westboro

#### INTRODUCTION & BACKGROUND

- **Ward Commission Report 1980** Investigation of corruption in award of design and construction projects in the '70s. Resulted in major overhaul of public construction procurement laws and established Inspector General's Office.
- The Construction Reform Law 2004 Major Changes added Owner Project Managers, Prequalification, Subcontractor Certification & CM at Risk.
- Municipal Modernization Act of 2016:
  - ✓ Standardized the dollar thresholds, advertising requirements, and procurement process requirements for both vertical and horizontal construction projects for horizontal projects estimated to cost <u>under</u> \$150,000.
  - ✓ Increased the thresholds requiring a formal bid opening, and DCAMM Certification and submission of filed sub-bids.
  - ✓ Option to use Agency/Awarding Authority procured blanket vendor contracts or OSD Statewide Contracts for procurement of smaller maintenance and repair projects.
  - ✓ Affirmative Marketing Program- New laws included MBE/WBE business and minority and women workforce participation obligations on all state agency and state funded municipal projects.

#### **INTRODUCTION** - continued

What is considered Building Construction M.G.L.c.149,§§44A-J

"Construction, reconstruction, installation, demolition, maintenance, or repair of a building by a public agency."

Sewer or water pumping station constructed as integral part of sewer or water project is bid under M.G.L. c. 30, §39M.

- Energy management service contracts may be procured under M.G.L. c.25A.
- Modular buildings may be procured using RFP process in M.G.L. c. 149, §44E (4).



Holyoke Veterans' Home – under construction

## Public Bidding Thresholds & Process Overview





**Worcester Trial Court** 

Delegation Training 2023 June 2023

#### **Designer Selection – Mass. Public Building Projects**

- M.G. L. c. 7C, §§ 44-59 Procurement Laws Governing Procurement of Design Services for Public Buildings
- The Commonwealth has a structured and competitive qualifications based process. It consists of submitting a Master File (required by law annually or whenever there is substantial change in firm's structure) and an application for each project, which includes supporting evidence of past relevant projects and performance. Selections are qualifications based and are not fee proposals.
- The Designer Selection Board (DSB) is an independent, unpaid board, a majority of whom are architects and engineers, established by the Legislature as a result of the Ward Commission. 11 Member Board - 3 Architects, 3 Engineers, 2 Public Representatives appointed by the Governor, 1 Registered Architect appointed by BSA, 1 Registered Engineer appointed by ACEC and 1 General Contractor appointed by AGC.



#### **Designer Selection - Mass. Public Building Projects**

- The DSB has a statutorily mandated role in the selection of all designers, interior designers, programmers and construction managers in connection with any building project for all public agencies and Commonwealth Charter Schools.
- The DSB does not select designers for modular buildings, demolition, municipal projects or where the design fee < \$30K or Construction Cost < \$300K, (thresholds increased in 2018) nor for any project undertaken by U/Mass Building Authority or MSCBA agencies.

#### **Project Specific Contracts**

- Board is mandated to select 3 finalists from among all applicants using a scoring system of their choice.
- Finalists are ranked in order and a record of the vote, with stated reasons, is sent to the DCAMM
  Commissioner, in the case of the DSB.
- DCAMM Commissioner is required to appoint #1 designer selected, or file a written justification of any other choice

#### House Doc Designer Selection-Municipal Building Projects

M.G.L. c. 7C, § 54

(a) Every contract for design services for any building construction, reconstruction, alteration, remodeling, or repair (where the design fee are estimated to cost \$30,000 or more, or the estimated construction cost is \$300,000 or more) by any city, town, or agency, board, commission, authority or instrumentality thereof, other than housing authorities and projects requesting funding from the Massachusetts School Building Authority shall be awarded only after a selection procedure adopted in writing, prior to publication requesting applications, complying with the purposes and intent of sections 44 to 58, inclusive, and" further requirements set forth in the statute.

Note: Projects with a ECC of \$1.5 million or more require an Owner's Project Manager be retained by the public awarding authority, see M.G.L. c. 149, § 44A1/2.

#### **Designer Selection Board - Searchable Public Notice Database**



#### **Designer Selection Board**

**Public Notice Search** 

1 Ashburton Place, Room 1018A, 10th Floor, Boston, MA 02108

www.mass.gov/dsb **Tel** 

**Telephone:** (617) 727-4046

NAVIGATION BAR													
Instructions	Public Notice Search	Project Summary	Registration & Disclosure	Sub Consultant(s) Setup	Application	Evaluations	References	Submission					
i	1 *	2	3	4	5	6	7	8					

Welcome, here you will be able to view all available project postings.

For more information, please click on the Instructions button above, in the navigation bar.

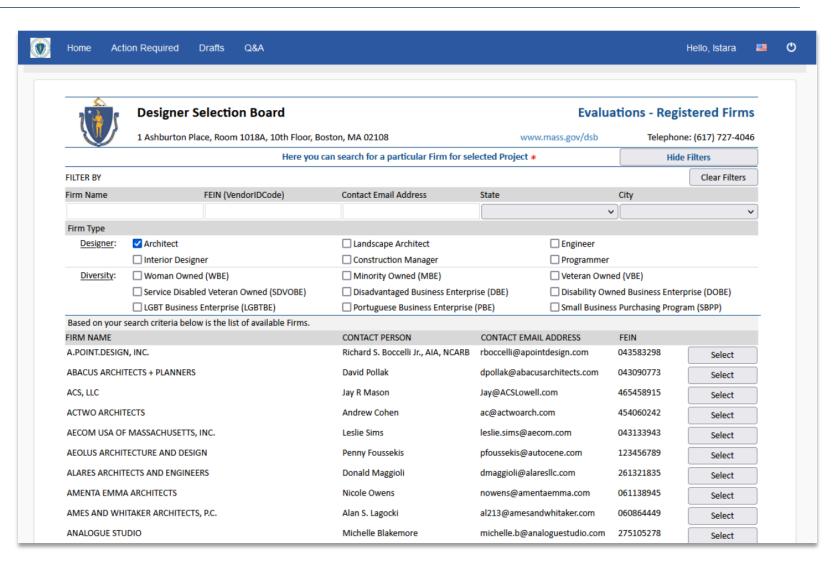
Show Filters

PROJECT TITLE	DSB LIST#	PROJECT NO.	NOTICE DATE	DEADLINE DATE	PRIME SERVICE	AWARDING AGENCY	
Study, Planning, Design, Management & Construction for MEP/F, Building and Site Renovations, Repairs & Upgrades	20-21	2021-05	11/11/2020	12/2/2020	Engineer	Westfield State University	VIEW
Study, Design, Management & Construction for General Building Renovations, Repairs & Upgrades	20-20	2021-006	11/11/2020	12/2/2020	Architect	Westfield State University	VIEW
GLCPS Convent Renovation Project	20-18	CP-DS-2020-001	11/4/2020	12/2/2020	Architect	Global Learning Charter Public School (GLCPS)	VIEW
Study and Design for General Building Renovations, Repairs and Upgrades	20-17	DCR20A/E07	10/7/2020	11/18/2020	Architect	Department of Conservation and Recreation (DCR)	VIEW

#### **Designer Selection Board** - Designer Evaluation

#### **Step 2 | Register the Project**

- Click on "User Menu" → "Submit New Evaluation" → "Continue"
- Choose a designer by adding the firm name or checking the relevant boxes and searching accordingly\*
- Select the firm you want to evaluate
- Fill out the project form with the required information
- Please note: the firm's Principal-In-Charge and Contact Person will be automatically sent a copy of your evaluation once submitted





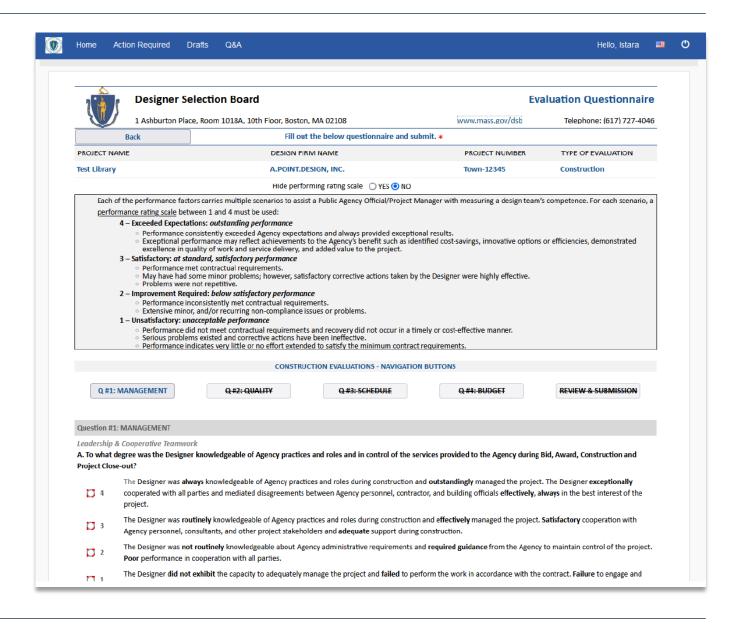
\*Only projects with registered design firms can be evaluated. If a firm is not registered, contact them to register.

Any questions about fields should be directed to Claire Hester (claire.hester@mass.gov) or Roberto Melendez (roberto.melendez@mass.gov) at the DSB.

## **Designer Selection Board** - Designer Evaluation

#### **Step 3 | Evaluation**

- Click "Proceed to Evaluation" and review introductory statement
- Answer each question under each category to proceed:
  - Management
  - Quality
  - Schedule
  - Budget
- Once you complete all four categories, you can go back and forth to make changes
- Once completed, check the certification box and then click "submit"
- You can save a draft at any point in time





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# Public Bidding Thresholds - G.L. c.149, §44A

**Prime/General Bids** – Four categories for building projects based upon the awarding authorities **estimated** construction cost (ECC):

- Less than **\$10,000**
- \$10,000 **\$50,000**
- >\$50,000 **\$150,000**
- Over **\$150,000**
- CM at Risk (Optional for Projects over \$5 mil)



**Greenfield Trial Court** 



**Fall River District Court** 

# Public Bidding Thresholds as of Nov. 7, 2016 Relevant Laws – Construction, Renovation, Repair of Buildings

- M.G.L. c.149, §44A
   Public Buildings with an estimated construction cost < \$10,000 & \$10,000-\$50,000.</p>
- M.G.L. c. 30, §39M
  - Public Buildings >\$50,000 to **\$150,000**.
  - Public Works –Horizontal/site work only,
     All: <\$10,000,\$10,000-\$50,000 &>\$50,000
  - Materials only purchases (no labor.)
- M.G.L. c. 149, §44A-J (Design-Bid-Build)
   Public Buildings (ECC) >\$150,000.
   Filed sub-bid >\$25,000 & Par. E >\$25,000
- M.G.L. c. 149A (CM at Risk)
   Optional for Public Buildings with ECC \$5 million or more.



Design & Study Contracts M.G.L. c. 7C, §§44-59

# Public Bidding Thresholds Bidding Thresholds G.L. c.149, §44A - Public Buildings & c.30, §39M

ECC Less than \$10,000 – Public Building Project & horizontal work

 No advertisement required, Awarding Authority uses Sound Business Practices as defined in GL. C. 30B, §2 - "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes." Seek competitive prices, quotes & keep records.

Agency Blanket Contract or Operational Services Division (OSD) Statewide Contract option to procure. Use of vendor from blanket or statewide contract deemed "Sound Business Practice."

Firms should be properly licensed and insured.

Prevailing Wage applies to all construction work performed on site.

For projects with ECC < \$25,000 - No bonding required.

OSHA Training not required.

DCAMM Certification, filed sub-bids and bid deposit requirements do not apply.



## **Public Bidding Thresholds**

Bidding Thresholds G.L. c.149, §44A - Public Buildings & c.30, §39M

ECC \$10,000-\$50,000 – Public Building Project & horizontal work

Awarding Authority must solicit written quotes from no fewer than three firms and post for two weeks
on awarding authority website, Central Register, COMMBUYS and conspicuous place in primary office of
awarding authority.

Option to procure through Awarding Authority Blanket Contract or OSD Statewide Trade Contract If:1) three or more quotes sought from Awarding Authority Blanket Contract or OSD Statewide Contract, and 2) at least 2 written quotes are received, and 3) the lowest is deemed acceptable by Awarding Authority, NO requirement to advertise.

Firms should be properly licensed and insured.

Prevailing Wage applies to all construction work performed on site.

For projects with ECC <\$25,000 - No bonding required. >\$25,000 Bond required.

OSHA Training required.

DCAMM Certification, filed sub-bids and bid deposit requirements do not apply.



## **Blanket Contracts Option for Awarding Authorities**

### Blanket Contracts for smaller MGL c.149, §44A & MGL c.30, §39M projects/tasks

#### <u>Projects under \$10,000</u> (Excerpt of full provision)

"A public agency that utilizes a vendor on a statewide contract procured through the operational services division of the Commonwealth, or a blanket contract procured by the public agency pursuant to this subsection, shall be deemed to have obtained the contract through sound business practices."

#### Projects \$10,000 - \$50,000 (Excerpt of full provision)

"A public agency may also procure a blanket contract to establish a listing of vendors in certain defined categories of work that are under contract to provide services for multiple individual tasks of not more than \$50,000 each, and from whom written responses will be sought. Any such blanket contract procured by the awarding authority shall be procured pursuant to either section 39M of chapter 30 or sections 44A-J, inclusive, of chapter 149 which are applicable to projects over \$50,000. ....provided, however, that if the public agency obtains a minimum of 2 written responses from a vendor list established through a blanket contract or a statewide contract procured through the operational services division, and the lowest of those written responses is deemed acceptable to the awarding authority, **public notification is not required.**" (*emphasis added*)



# Public Bidding Thresholds Bidding Thresholds G.L. c.149, §44A - Public Buildings & c.30, §39M

## **ECC** >\$50,000 to \$150,000 – Public Building Project

G.L. c.30,§39M Process Applies, same as for all horizontal work >\$50,000.

- Advertise two weeks before in Central Register,
   COMMBUYS & newspaper of general circulation and post at office.
- •Bid deposit required.
- Public bid opening.
- Award to lowest eligible and responsible bidder. (eligible as defined in c.30, §39M)



**UMASS Boston Integrated Sciences Complex** 

Firms should be properly licensed and insured.

Prevailing Wage applies to all construction work performed on site. OSHA Training required.

For projects with ECC < \$150,000: DCAMM Certification and filed sub-bids do not apply.

IT IS A VIOLATION OF THE LAW TO BREAK A LARGER PROJECT INTO SMALLER PROJECTS TO AVOID MORE RIGOROUS PROCUREMENT REQUIREMENTS — Bid Splitting



# Public Bidding Thresholds Bidding Thresholds G.L. c.149, §44A

## ECC over \$150,000

M.G.L. c. 149, §44A-44J Process Applies with filed sub-bids.

- DCAMM Certification required of prime/general bidders in one of the 28 categories with Update Statement.
- DCAMM Certification required of filed sub-bidder (18 trades) with Update Statement.
- Filed sub-bid applies to 18 trades in §44F with ECC of \$25,000 or more.
- Paragraph E threshold, subcontractors to filed sub-bidders for work not customarily performed by filed sub-bidders with ECC > \$25,000





Historic John Adams Courthouse Boston

# Public Bidding Thresholds Bidding Thresholds G.L. c.149, §44A

## **ECC over \$150,000** (continued)

- •Bid Deposit required.
- •Two Public Bid Openings (Filed Sub-bids/Prime Bids.)
- Payment and Performance Bonds required.
- Award to lowest eligible & responsible general bidder.
  - Responsible possessing the skill, ability and integrity to perform work based upon determination of competent workmanship and financial soundness.
- Pre-qualification of Prime and Sub-bidders:
  - Optional for projects with ECC of \$150,000 \$10 million,
  - Mandatory for non-exempt awarding authorities on projects with ECC of \$10 million or more. (Certain state agencies including DCAMM exempt).

Firms should be properly licensed and insured.

Prevailing Wage applies to all construction work performed on site. OSHA Training required.



# Public Bidding Thresholds Bidding Thresholds G.L. c.149, §44A

### **ECC over \$150,000** (continued)

- Projects advertised on COMMBUYS (<u>www.commbuys.com</u>), Central Register and in local newspaper, posted on also can appear in trade sources such as Dodge Bulletin.
- Bids must be submitted before the filed sub-bid and general bid deadlines-these deadlines are firm, even a bid submitted one minute late cannot be accepted.
- Bids must be complete, signed, acknowledge substantive addenda, and be accompanied by:
  - 1) Bid Deposit of 5%
  - 2) Current & valid Certificate of Eligibility
  - 3) Completed & signed Update Statement OR THE BID WILL BE REJECTED!



## **Public Bidding - How it Works**

## Bidding Thresholds G.L. c.149, §44A - Public Buildings

Filed Sub-bid Categories M.G.L. c 149, §44F (18 trades)

- (a) roofing and flashing;
- (b) metal windows;
- (c) waterproofing, damp-proofing and caulking;
- (d) miscellaneous and ornamental iron;
- (e) lathing and plastering;
- (f) acoustical tile;
- (g) marble; (h) tile; (i) terrazzo;
- (j) resilient floors; (k) glass and glazing;
- (l) painting; (m) plumbing;
- (n) heating, ventilating and air-conditioning;
- (o) electrical work;
- (p) elevators;
- (q) masonry work;
- (r) fire protection sprinkler systems: and
- (s) any other class of work that awarding authority deems necessary



# Public Bidding - How it Works Bidding Thresholds G.L. c.149, §44A - Public Buildings

**ECC over \$150,000** (continued)

## Awarding Authority:

- Receives, opens and reviews sub-bids then develops filed sub-bidder list.
- Distributes filed sub-bidder list to all firms that have requested plans and specs for the project.
- Receives, opens and reviews prime/general bids.
- Award to lowest eligible & responsible prime bidder.
- Prime bidders must pick its filed sub-bidders from the list distributed by the awarding authority. They can select any filed sub-bidder from the list they choose, but the prime must carry the cost of the work the filed sub-bidder provided in its sub-bid in the prime's bid. Prime contractors will usually carry the lowest, or close to lowest priced filed sub-bidders to keep its overall bid price competitive.

## **Payment & Performance Bonding Thresholds**

The Prime Contractor on projects of \$25,000 and above must provide a payment bond and on larger projects over \$150,000 also provide a performance bond.

All filed sub-bidders on projects over \$150,000 should be prepared to provide payment and performance bonds and are required to provide such bonds on projects that require prequalification (\$10 million and up) and on all CM at Risk projects.





Mass College of Liberal Arts Center for Science and Innovation

## **Addenda**

- Any changes to the bid package initially issued including, but not limited to, those to the Instructions to Bidders/Request for Bids, Specifications, Plans, Requests for Qualifications, Requests for Proposals or to any aspect of the documents must be memorialized in an Addendum.
- These changes can include, and are not limited to, bid/proposal submission dates/times, bid/proposal submission forms, any changes or additions to the specifications and/or plans and any other information included in the bid package.
- Each Addendum must be sequentially numbered and dated and must be delivered to all plan holders no later than two day prior to the bid date and preferably sooner and posted.
- Careful attention should be paid when answering questions via addendum to not only answer the question, but to also made substantive edits to the documents themselves, IFB, specs, plans, etc. when appropriate within the addendum.

# Determining Eligibility & Responsibility of Low Bidders G.L. c.149, §44A – J & c.149A Filed Sub-bid/Trade Bids

### **Awarding Authority Responsible to first:**

- Receive, open and review ALL Filed sub-bids & Prime Bids
- 1. Review all Bid Submissions for Completeness.
  - Complete & Signed bid form with no additions or conditions not called for, unit prices and alternates bid if applicable;
  - Valid Certificate of Eligibility for the certification category required;
  - Complete & Signed Update Statement; and
  - Bid Bond

(Update Statement is NOT a public record)

- Prime Contractor bids ensure total bid with alternates does not exceed Single Project Limit on Certificate of Eligibility.
- Prime Contractor bids review Update Statement to ensure work in progress and annualized value of project being bid does not exceed Aggregate Project limit.



# Determining Eligibility & Responsibility of Low Bidders G.L. c.149, §44A – J & c.149A Filed Sub-bid/Trade Bids

### Awarding Authority:

- Receives, opens and reviews filed sub-bids for completeness, then develops draft filed sub-bidder list.
- Must also review Update Statement & DCAMM Certification Files to determine eligibility and responsibility of available apparent low filed sub-bids.
- Prepares & distributes finalized filed sub-bidder list. -c.149, 44A projects only.
- Receives, opens and reviews prime/general bids for completeness and single & aggregate project limits. -c.149, 44A projects only
- Must also review Update Statement & DCAMM Certification Files to determine eligibility and responsibility of apparent low prime/general bids. - -c.149, 44A projects only
- Award to lowest eligible & responsible prime bidder. -c.149, 44A projects only

IMPORTANT REMINDER – UPDATE STATEMENTS ARE NOT PUBLIC RECORDS AND SHOULD BE PLACED IN A SECURE LOCATION SEPARATE FROM THE Bids/SOQs/Proposals.

### **Update Statement and Certification File Review**



# PRIME/GENERAL UPDATE STATEMENTS ARE NOT PUBLIC RECORDS AND ARE NOT OPEN TO PUBLIC INSPECTION (M.G.L. C.149, §44D

#### TO ALL BIDDERS AND AWARDING AUTHORITIES

A COMPLETED AND SIGNED PRIME/GENERAL CONTRACTOR UPDATE STATEMENT MUST BE SUBMITTED WITH EVERY PRIME/GENERAL BID FOR A CONTRACT PURSUANT TO M.G.L. c.149, §44A AND M.G.L. c. 149A. ANY PRIME/GENERAL BID SUBMITTED WITHOUT AN APPROPRIATE UPDATE STATEMENT IS INVALID AND MUST BE REJECTED.

Caution: This form is to be used for submitting Prime/General Contract bids. It is not to be used for submitting Filed Sub-Bids or Trade Sub-Bids.

#### **AWARDING AUTHORITIES**

If the Awarding Authority determines that the bidder does not demonstrably possess the skill, ability and integrity necessary to perform the work on the project, it must reject the bid.

## **Update Statement and Certification File Review**

#### INSTRUCTIONS TO AWARDING AUTHORITIES

**Determination of Bidder Qualifications** 

- It is the awarding authority's responsibility to determine who is the lowest eligible and responsible bidder. You must consider all of the information in the low bidder's Update Statement in making this determination. Remember: this information was not available to the Division of Capital Asset Management and Maintenance at the time of certification.
- The bidder's performance on the projects listed in Parts 1 and 2 must be part of your review. Contact the project references.

**810 CMR 8.08:** Examination of Certification Records (2) An Awarding Authority, prior to awarding a contract, must inspect DCAMM's certification file for any Contractor under consideration for a public Building Project for the purpose of establishing the qualifications of the Contractor to perform the project for the Awarding Authority. DCAM shall make a file available when the Awarding Authority certifies in writing that it shall use all non-public and/or proprietary information obtained from such examination solely for the purpose of determining the Contractor's qualifications and shall not make any of the non-public and/or proprietary information public.

## **Update Statement and Certification File Review**

Correction of Other Defects: An awarding authority may, in its discretion, give a contractor notice of defects, other than mistakes or omissions of form, in the contractor's Update Statement, and an opportunity to correct such defects, provided the correction of such defects is not prejudicial to fair competition. An awarding authority may reject a corrected Update Statement if it contains unfavorable information about the contractor that was omitted from the Update Statement filed with the contractor's bid. [810 CMR 8.05(2)].

#### **Bidding Limits**

**Single Project Limit**: The total amount of the bid, including all alternates, may not exceed the bidder's Single Project Limit.

**Aggregate Work Limit**: The annual value of the work to be performed on the contract for which the bid is submitted, when added to the annual cost to complete the bidder's other currently held contracts, may not exceed the bidder's Aggregate Work Limit. Use the following procedure to determine whether the low bidder is within its Aggregate Work Limit:

<u>Step 1</u> Review Update Statement Question #2 to make sure that all requested information is provided and that the bidder has accurately calculated and totaled the annualized value of all incomplete work on its currently held contracts (column 9).



## **Update Statement and Certification File Review**

PART 2 - CURRENTLY HELD CONTRACTS

LIST ALL PUBLIC AND PRIVATE BUILDING AND NON-BUILDING CONSTRUCTION PROJECTS YOUR FIRM HAS UNDER CONTRACT ON THIS DATE REGARDLESS OF WHEN OR WHETHER THE WORK COMMENCED.

1	2	3	4	5	6	7	8	9
PROJECT TITLE & LOCATION	WORK CATEGORY	START AND END DATES	ON SCHEDULE (yes / no)	CONTRACT PRICE	% NOT COMPLETE	\$ VALUE OF WORK NOT COMPLETE (col. 5 X col. 6)	NO. OF YEARS REMAINING (see note below)	ANNUALIZED VALUE OF INCOMPLETE WORK (col. 7 ÷ col. 8) (divided by)

ANNUALIZED VALUE OF ALL INCOMPLETE CONTRACT WORK (Total of Column 9)

Column 8 • If less than one year is left in the project schedule, write 1.

 If more than 12 months are left in the project schedule, divide the number of months left in the project schedule by 12 (calculate to three decimal places).

<u>Step 2</u> Determine the annual dollar value of the work to be performed on your project. This is done as follows:

- (i) If the project is to be completed in less than 12 months, the annual dollar value of the work is equal to the full amount of the bid.
- (ii) If the project will take more than 12 months to complete, calculate the number of years given to complete the project by dividing the total number of months in the project schedule by 12 (calculate to 3 decimal places), then divide the amount of the bid by the calculated number of years to find the annual dollar value of the work.

Step 3 Add the annualized value of all of the bidder's incomplete contract work (the total of column 9 on page 5) to the annual dollar value of the work to be performed on your project. **The total may not exceed the bidder's Aggregate Work Limit**.

# DCAMM Contractor Certification & Evaluation Overview



Massachusetts College of Art and Design - Center for Design+Media

#### **DCAMM Certification**

Prime/General Certification - Sub-bidder Certification What's the difference?

A **Prime/General** Certificate of Eligibility ("Certificate") is required when a Prime/General Contractor or Construction Manager bids *directly* to an owner/awarding authority and the ECC of the work is over **\$150,000**.



Small Prime Contractor Certification Available – Projects up to \$500,000, Aggregate Limit up to \$1,000,000.

A **Filed Sub-bidder** Certificate of Eligibility is required when a subcontractor bids as a Filed Sub-bidder on a M.G.L. c 149, §44A-J (ECC **over \$150,000**) or as a Trade Contractor under a Construction Manager at Risk (CM at Risk) project under M.G.L. c.149A, in any of the 18 trades outlined in M.G.L. c.149, §44F and the ECC of the sub-bid work is **over \$25,000**.

### **DCAMM Certification**

When is a DCAMM *Prime/General Certificate* & *Filed Sub-bidder/Trade Certificate* Required?

A DCAMM **Prime/General Certificate** is required on projects bid under M.G.L. c.149, §44A-J, c.149A (CM at Risk.) or c.25A-Energy

A DCAMM **Sub-bidder Certificate** is required on projects bid under M.G.L. c. 149, §44A-J or c.149A

A contract is subject to M.G.L. c.149, §§44A-J or c.149A if:

- 1. It is put out by a Massachusetts public agency (i.e. state agencies, authorities, counties, cities, towns, etc.); and
- 2. It is for the construction, reconstruction, demolition, maintenance, or repair of a vertical building; and
- 3. It is estimated to cost over \$150,000.

DCAMM Certification is <u>not</u> required for:

Building projects under \$150,000; Highway, bridge, tunnel, sewer, site work or other horizontal work that does not involve buildings.

## **DCAMM Certification** – Requirements for Types of Projects

Public Building Project Type and/or Dollar Value	DCAMM Certification of Primes Required*  *Prime can be General Building Construction or any of 28 specialty categories	DCAMM Certification of Sub in 18 Filed Sub-Bid Trades Required*	Prequalification of Primes and Subs in 18 Trades Required**  **If trade ECC \$25,000+
Building up to \$50,000 c. 149, 44A (2)(A)&(B)	No	No	No
Building >\$50,000-\$150,000 c. 149, 44A (3) & c. 30, 30M	No	No	No
Building over <b>\$150,000</b> c. 149, 44 A-J and CM at Risk c. 149A	Yes	Yes	If ECC of project is over \$10 million –DCAMM+ exempt
CM at Risk c. 149A Optional - ECC over \$5 million	Yes	Yes	Yes
Energy Projects c.25A, 11	Yes	No	No

# DCAMM Certification Categories for Prime/General Contractors 28 Categories of Work

General Building Construction	Electronic Security Systems	Historical Masonry	Painting
Alarm Systems	Elevators	Historical Painting	Plumbing
Asbestos Removal	Energy Management Systems	Historical Roofing	Pumping Stations
De-leading	Exterior Siding	HVAC	Roofing
Demolition	Fire Protection Sprinkler Systems	Masonry	Sewage and Water Treatment Plants
Doors & Windows	Floor Covering	Mechanical Systems	Telecommunications Systems
Electrical	Historical Building Restoration	Modular Construction/ Prefab	Waterproofing

# Filed Sub-Bidder Categories M.G.L. c.149, §44F Apply to M.G.L. c.149, §44A & c. 149A Public Buildings

#### Filed Sub-bid 18 trades

- (a) roofing and flashing;
- (b) metal windows;
- (c) waterproofing, damp-proofing and caulking;
- (d) miscellaneous and ornamental iron;
- (e) lathing and plastering;
- (f) acoustical tile;
- (g) marble;
- (h) tile;
- (i) terrazzo;
- (j) resilient floors;
- (k) glass and glazing;
- (I) painting;
- (m) plumbing;
- (n) heating, ventilating and air-conditioning;
- (o) electrical work;
- (p) elevators;
- (q) masonry work;
- (r) fire protection sprinkler systems.



# Contractor Certification & Evaluation—When Does It Apply Relevant Laws – Construction, Renovation, Repair, Maint. Buildings

- M.G.L. c.149, §44A Not Applicable
  Public Buildings with an estimated
  construction cost < \$10,000 & \$10,000-\$50,000.
- M.G.L. c. 30, §39M Not Applicable
  - Public Buildings >\$50,000 to **\$150,000**.
  - Public Works –Horizontal/site work only,
     All: <\$10,000,\$10,000-\$50,000 &>\$50,000
  - Materials only purchases (no labor.)

# <u>Contractor Certification Required -</u> <u>Review of Low Prime & Filed Sub Bidder DCAMM</u> <u>Certification Files Required - Evaluations Required</u>

- M.G.L. c. 149, §§44A-J (Design-Bid-Build) Required
   Public Buildings (ECC) >\$150,000.
   Filed sub-bid >\$25,000
- M.G.L. c. 149A (CM at Risk) Required Construction Manager Filed Sub-bid/Trade Bidders



#### **Contractor and Filed Sub-Bidder Evaluations**

- Evaluations must be completed on both prime/general contractors/Construction Managers and filed sub-bid/trade subcontractors for all projects bid under G.L. c. 149, §§44E 44F & c.149A.
- Two Evaluations required. Preliminary Evaluation at the mid-point of the project and Final Evaluation.
- Awarding Authority is required to send a copy of the Preliminary Evaluation to the Contractor being evaluated. Preliminary Evaluation is NOT sent to DCAMM.
- Awarding Authority is required to submit Final Evaluations to DCAMM and Contractor promptly (within 90 days) after completion of project (use and or occupancy, or upon Issuance of a Certificate of Use and/or Occupancy, whichever is earlier).
- Contractor may submit its rebuttal/response to a Contractor Evaluation to DCAMM and Awarding Authority. Contractor Evaluations and Responses are Public Records.

### **DCAMM Certification**

#### **Subcontractor and Prime Contractor Evaluations**

- Subcontractor and Prime Contractor evaluations and responses to subcontractor and general contractor evaluations are public records.
- Awarding Authorities that fail to submit Subcontractor and Prime Contractor evaluations forms together
  with any contractor responses to DCAMM within 90 days of project completion (certificate of occupancy)
  risk losing eligibility for state funding.
- Indemnification of \$1 million for representatives of public agencies providing subcontractor and prime contractor evaluations with limited indemnification of legal fees only, if the person is found to have acted in a willful, wanton or reckless manner in the evaluation.

Reminder: Awarding Authority, or its designee, must review DCAMM Certification Files to determine Responsibility of all Prime and Filed Sub-bid/Trade low bidders as part of its project procurement process.



#### **DCAMM Certification**

#### **Contractor Evaluations Instructions and Requirements**

The same evaluation form is used at both the Preliminary (50% point of contract) and Final Evaluation stages.

Evaluation forms must be completed and signed by the following:

- Individual at Awarding Authority who is most knowledgeable about the construction phase of the project.
- For public projects under \$1.5M which do not require an Owner's Project Manager ("OPM"), only official at the Awarding Authority must sign Contractor Evaluation. At Awarding Authority's discretion, the AA's Representative (i.e. architect/designer) *may* sign the Evaluation too. No separate evaluation may be submitted.
- For public projects over \$1.5M where an OPM is required, it is mandatory that the Owner (Awarding Authority) and OPM both sign the Contractor Evaluation.

## **Threshold DCAMM Certification Requirements**

GENERAL REQUIREMENTS	<u>PRIME/GENERAL</u> CONTRACTORS	<u>SMALL PRIME</u> CONTRACTORS	<u>FILED SUB-BID</u> CONTRACTORS	
SINGLE PROJECT LIMIT	Minimum: \$150,000  Maximum: No Set Limit  Cannot exceed single project bonding capacity limit or aggregate work limit	Minimum: \$150,000  Maximum: \$500,000  Cannot exceed single project bonding capacity limit or aggregate work limit	NOT APPLICABLE	
AGGREGATE WORK LIMIT	Minimum: \$150,000 Maximum: No Set Limit Cannot exceed aggregate work capacity or bonding limit	Minimum: \$150,000 Maximum: \$1,000,000 Cannot exceed aggregate work capacity or bonding limit	NOT APPLICABLE	
APPLICATION LOOKBACK PERIOD FOR CALCULATION OF ELIGIBLE PROJECTS & DATA	FIVE YEARS from date Application is received by DCAMM	FIVE YEARS from date Application is received by DCAMM	THREE YEARS from date Application is received by DCAMM	
VALUE OF PROJECTS  Minimum Value of \$80,000 for e		Minimum Value of \$50,000 for each project	Minimum Value of \$20,000 for each project	
LENGTH OF TIME IN BUSINESS	LENGTH OF TIME IN BUSINESS  At least ONE YEAR in business in each of the Categories of Work for which Certification is sought		SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	
FINANCIAL STATEMENTS	CPA-REVIEWED or CPA- AUDITED	CPA-COMPILED or CPA- REVIEWED or CPA-AUDITED	CPA-COMPILED or CPA- REVIEWED or CPA-AUDITED	

**Threshold DCAMM Certification Requirements** 

GENERAL REQUIREMENTS	PRIME/GENERAL CONTRACTORS	SMALL PROJECT CONTRACTORS	<u>FILED SUB-BID</u> CONTRACTORS	
BONDING	Single Project Limit and Aggregate Work Capacity Limit are capped by Bonding Commitment Limits	SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	NOT APPLICABLE	
LICENSURE REQUIREMENTS	Must be licensed in each of the Categories of Work for which Certification is sought, where licensure is required by Massachusetts law	SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	
EXPERIENCE AND QUALIFICATIONS OF PRINCIPAL & SUPERVISORY PERSONNEL	Principals, management and supervisory personnel must demonstrate experience in each of the Categories of Work for which Certification is sought	SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	
MINIMUM PASSING CONTRACTOR EVALUATION SCORE	Score of <b>80 OR ABOVE</b> is required for each Project Evaluation	SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	
AVERAGE PASSING PROJECT EVALUATION RATING	Average of Applicant's current Evaluations must be <b>80 OF ABOVE</b>	SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	SAME AS PRIME/GENERAL CONTRACTOR REQUIREMENT	

### **DCAMM Certification**

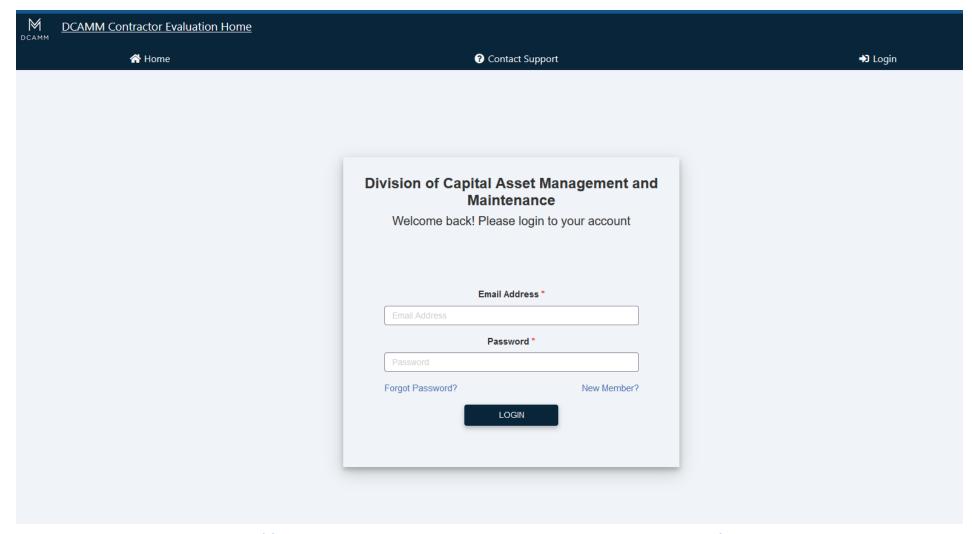
#### **Contractor Certification & Evaluation Information On-line**

See DCAMM website (<u>www.mass.gov/dcam</u>) for:

- Standard Contractor Evaluation Form.
- Searchable Database of DCAMM Certified Prime & Filed Sub-bidders.
- Certification On-Line Application and Instructions.
- DCAMM Regulations 810 CMR §4.00 & §8.00.
- DCAMM Contractor Certification Guidelines & Procedures.
- List of Contractors Debarred by DCAMM.



### **Evaluation Portal**





https://contractorevaluation.stonewallsolutions.com/Login



#### **DCAMM Certification Contact Info**

Direct Dial: (857) 204-1305

Email: <a href="mailto:DCAMM.Certification@Mass.gov">DCAMM.Certification@Mass.gov</a>

Suzzette's Contact Information

Direct Dial: (617) 645-8670

Email: <u>Suzzette.Waters@mass.gov</u>

# **Delegation Training 2023**

# **Prequalification & CM at Risk Overview**



Mass Information Technology Center Chelsea

#### **Prequalification Overview**

#### When is "prequalification" required by awarding authority?

- Mandatory for all most public awarding authorities to "prequalify" all general
  contractors and filed sub-bidders for M.G.L.c.149 public building construction projects
  with estimated construction costs of \$10 million or more and for CMs and Trade
  Subcontractors on all CM at Risk Projects.
- <u>Discretionary</u> for all public awarding authorities to "prequalify" all general contractors and filed sub-bidders on c.149 projects with estimated construction costs between \$150,000 and \$10,000,000.
- <u>Discretionary</u> for "exempt" agencies.

Division of Capital Asset Management & Maintenance, Mass Port Authority, Mass Water Resource Authority, Mass State College Building Authority, U Mass Building Authority on c.149 projects. Mandatory for **all** on CM at Risk projects.

#### **Prequalification Overview**

#### What is Prequalification?

**Prequalification** is part of a <u>two-phased</u> procurement process utilized by public awarding authorities which enables public awarding authorities to limit the "bidding pool" to general bidders and sub-bidders who are qualified to do the work of that project.

#### The Two-Phase Process:

- •**RFQ Phase** the awarding authority issues a RFQ and reviews information submitted to determine qualified bidders.
- •RFP Phase only "prequalified" bidders are invited to bid.

See DCAMM Website for Prequalification Regulations and Guidelines for c.149 projects and c.149A for Prequalification requirements for c. 149A projects.



#### CM at Risk Services – M.G.L. c. 149A

A construction management firm provides a range of pre-construction services and construction

management services including:

- Cost estimation
- Consultation regarding the design
- Preparation & coordination of bid packages
- Scheduling
- Cost control value engineering
- Assist with pre-qualification and evaluation of trade contractors and other subcontractors
- Act as the general contractor during the construction
- Provide management and construction services.



Worcester Recovery Center and Hospital

#### **CM at Risk Services**

- Delivery method is optional for Awarding Authorities on building projects with an ECC of \$5 million or greater.
- Inspector General approval required on a project by project basis--- exceptions are DCAMM,
   Mass Port, MWRA, and MSCBA, which submit procedures for projects they choose to procure as CM at Risk.
- CM at Risk firm and subcontractors in 18 trades must be certified by DCAMM.
- Prequalification of CMs and subcontractors in 18 trades required
- Laws governing prevailing wages, direct payment, prompt payment, unforeseen conditions, delays and contractor record keeping are all applicable.

# **Prevailing Wage Law**



# Prevailing Wage M.G.L. c. 149, §§26-27D

- Project specific wage rates set by Department of Labor Standards (DLS) on a project by project basis.
- Must be Included in bid and contract documents by awarding authority.
- Required to be paid on all public construction projects of any dollar value to all workers working on site.
- All contractors and subcontractors are required to prepare, retain and submit to awarding authority
  Weekly Payroll Reports on the form required by the awarding authority evidencing that all workers
  were paid the prevailing wage or more for work on the project.
- Awarding authority required to retain these records



# **Prevailing Wage – Annual Updates**

M.G.L. c.149, §27 was amended effective August 8, 2008

Applies to all vertical and horizontal construction projects commenced after August 8, 2008.

- The awarding authority is required to obtain annual updates of the prevailing wage rates for the project during each year for the duration of the project.
- The contractors must post and pay the updated rates.



# **Delegation Training 2023**

# **Emergency Procurements**



# Emergency Procurements – G.L. c 149, §44A(4)

#### The law states:

"In cases of extreme emergency, the awarding authority may, with the prior approval of the commissioner, award a contract *for that portion of the work necessary to preserve the health or safety of persons or property or to alleviate an imminent security threat* on the basis of such competitive bids or proposals as it can obtain in time to care for the extreme emergency and without public opening of the bids or proposals.

Where the nature of the emergency prevents the awarding authority from obtaining the prior approval of the commissioner, the awarding authority may contract for the necessary work without said prior approval; provided, however, that the approval of the commissioner shall still be sought at the earliest possible time...if the commissioner at that time fails to approve the emergency determination the awarding authority shall promptly cease all work for which the emergency determination was denied.

The commissioner shall maintain a record of all contracts awarded pursuant to this subsection, containing a description of the circumstances and the reasons for the commissioner's determination."

# **Emergency Waivers**

IN QUALIFIYING EMERGENCY SITUATIONS PUBLIC AWARDING AUTHORITIES SEEKING AN EMERGENCY WAIVER MUST RECEIVE WRITTEN APPROVAL FROM THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE

A letter on official agency or municipality letterhead explaining each of the following in detail must be submitted to DCAMM:

- 1. Whether the awarding authority is 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);
- 2. The nature of the extreme emergency and how it creates an immediate threat to the health or safety of people or property;
- 3. How and when the awarding authority became aware of the emergency situation;
- 4. 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;
- 5. Why the time requirements involved in the standard bidding process will not suffice;

#### **Emergency Waivers**

- 6. The bid solicitation process that will be used to maximize competition, to the extent possible;
- 7. The approximate dollar value of the emergency scope of work; and,
- 8. A statement that **the awarding authority acknowledges** that the prevailing wage law (all projects), bonding requirements (projects >\$25k) and the DCAMM contractor certification requirements (projects over \$150k) apply to emergency projects.

PUBLIC AWARDING AUTHORITIES REQUESTING an EMERGENCY WAIVER SHOULD IMMEDIATELY Submit at DCAMM's Emergency Waiver Web Page - emergencywaivers.dcamm@state.ma.us

Attach Carol Gladstone, Commissioner letter to: Division of Capital Asset Management One Ashburton Place, 15<sup>th</sup> Floor Boston, MA 02108 Attn: Emergency Waiver Request

Questions contact Deputy General Counsel:
Susan Goldfischer susan.goldfischer@mass.gov
Ryan Moore ryan.moore@mass.gov
Steven Zeller steven.zeller@mass.gov

Jack McDonnell john.mcdonnell@mass.gov Dennis D'Angelo dennis.dangelo@mass.gov





# Competitive & Legally Compliant Specifications & Bids









# **Competitive Specifications – Proprietary Specs**

M.G.L.c. 30 §39M(b) "Specifications... shall be written to provide for full competition for each item of material to be furnished under the contract; except, however, that said specifications may be otherwise written for sound reasons in the public interest stated in writing in the public records of the awarding authority... to be prepared after reasonable investigation.

Specifications must identify a minimum of three manufacturers and state "or equal" for each material called for. In the alternative, performance specs may be written that detail functions to be performed/results to be achieved, but make sure at least three manufacturers products can meet the performance specification. The key is **FULL COMPETITION FOR EACH MATERIAL.** 

While permitted by law - research, investigate and document when considering proprietary specifications, consider the lack of competition and document sound reasons in the public interest in writing.

Even a proprietary spec. must specifically allow for "or equals."

Investigate the availability and affordability of maintenance services for proprietary items.



# **Legally Compliant Specifications - Alternates**

- Under M.G.L.c 149, §44G an awarding authority can include alternates, alternative work it may, or may not, include in the final project, in the specifications it issues for a project and request separate pricing for such alternate work. Allowances are not permitted by law on c.149 projects.
- Scopes for each of the requested alternate work packages must be clearly identified in the specifications and on the plans. Alternates are identified by a number, Alternate 1, Alternate 2, etc. They can be either work that may, at the awarding authorities discretion, be added into the project, an "add alternate", or work that may be deleted from the project or reduce the cost of the work, a "deduct alternate".
- Alternates must be listed in numerical order of priority in the specifications and must be considered in numerical order when the awarding authority decides whether to accept them or not. They can not take Alt. 2 if they don't' take alternate1, etc.
- After prime bids are open, the awarding authority must decide which alternates, if any, it will accept in order to determine the lowest eligible and responsible prime bidder and relevant sub-bidders.

# **Compliant Specifications-Filed Subs & Paragraph E**

- Project specifications must list all of the work of each of the 18 applicable filed sub-bid trades in separate clearly identified and properly labelled sections. Those sections must state that they contain the work of the filed sub-bid trade. Those sections must also reference all of the plans showing the work of that filed sub-bid trade. M.G.L.c.149, § 44F(1)(a).
- If it is customary for a particular filed sub-bid trade to subcontract out portions of the work of that trade, and the awarding authority estimates the cost of the sub-subcontracted out work to be more than \$25,000, the specifications must clearly state the categories of such work that must be listed as sub-sub work on the filed sub-bidders bid. This is often referred to as Paragraph E work. M.G.L.c.149, \$ 44F(1)(a) & (2)E.
- The filed sub-bidder must then provide the name of the firm and a price on its bid form for the work in the requested Paragraph E categories. Filed sub-bidders may list themselves for such work if they customarily perform it themselves. Failure of a sub-bidder to list a requested sub-subcontractor will result in rejection of its bid.

# ACCESS AND OPPORTUNITY Affirmative Marketing (MBE/WBE) Program Minority & Women Workforce Participation Veteran Owned Businesses and Others





# **Commonwealth's Affirmative Marketing Program (AMP)**

1984 Executive Order - Minority Business Participation - Construction

1986 Minority & Women Business Participation DCPO (now DCAMM)

1989 & 1995

US Supreme Court issues City of Richmond & Adarand decisions establishing constitutional test & parameters for race-based public contracting programs

1994 Executive Office of Transportation & Construction Disparity Study (horizontal)

**1996** DCPO first Disparity Study – Building Construction

2000-192005

Construction Reform Law new CM at Risk process,

prequalification, filed-sub bidder DCAMM Certification & extends AMP to state funded municipal projects

2010 DCAMM w/SDO 2nd Disparity Study (building design & construction)

New workforce participation goals-reporting requirements

2014-15 Service-Disabled Veteran & Veteran Owned Business benchmark established

- SDVBE/VBE 3%

2017 DCAMM w/SDO most recent Disparity Study

**2020** Current AMP program changes effective July 1, 2020



# Affirmative Marketing Program (AMP) MBE/WBE Business Participation

(Under M.G.L. c.7C, §6, Executive Orders 559, 565, 592 & 599 & Admin.Bulletins)

- AMP MBE/WBE participation goals apply to DCAMM projects, certain state agency projects, and "state assisted building projects" which are projects by municipalities and political subdivisions when costs paid in whole or in part by the Commonwealth. (M.G.L.c.7C, §6 & EOs)
- Individualized Project Specific MBE & WBE Participation Goals are set on a project by project basis by DCAMM for state projects & SDO for municipal projects.
- AMP Overall Annual Program Goals across all spending set by DCAMM & the Supplier Diversity Office (SDO) (M.G.L.c.7C, §6)
- DCAMM and state agencies monitor and report participation on their projects to SDO/Gov's. Office of Access and Opportunity. SDO monitors and reports on municipal state assisted building projects.

### Commonwealth's Affirmative Marketing Program & Workforce

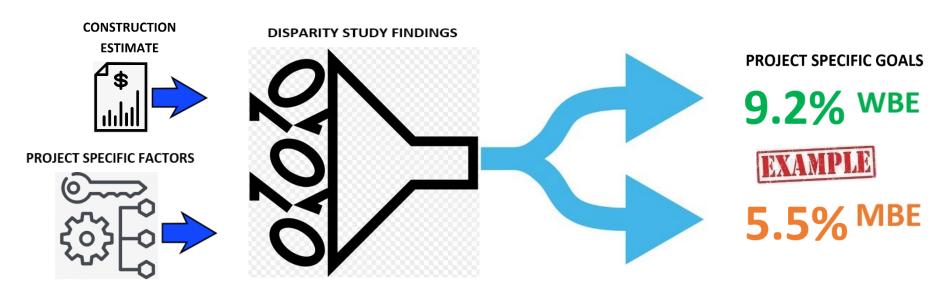
- Building Design & Construction project procurement documents and contracts must contain both:
  - customized "project specific" MBE and WBE participation goals set on a project-by-project basis unless such goals are waived and reporting requirements; and
  - minority and women workforce goals and reporting required on all building construction projects.
     Current 15.3% minorities 6.3% women. Workforce goals can not be modified or waived. Reporting on Design workforce goals.
- Awarding Authorities are responsible for AMP MBE/WBE program and workforce reporting administration, monitoring and reporting on their projects. State funded municipal projects work with Supplier Diversity Office on goals setting & reporting to SDO.
- A Disparity Study published in Dec 2017 provides the legal foundation for the AMP, documents availability of MBE & WBE firms, contains other statistical data and anecdotal evidence.



# **Construction/DESIGN Individual Project Goal Setting**

Project Specific Goals for projects are established

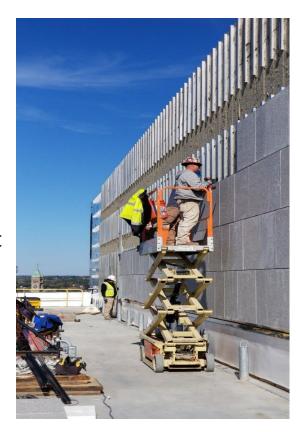
- Information from Disparity Study informs project specific goal setting.
- Project specific goals based on availability of relevant trades and project specific factors.
- Supports adjustment of project specific goals when warranted.



# **Compliance Obligations & Oversight**

#### Real, Meaningful Tracked & Enforced MBE/WBE and Workforce Participation Programs

- Establish project goals working with SDO for municipal projects and DCAMM for state projects. Place prominently in procurement documents.
- Project MBE/WBE goals with approved Schedule for Participation required prior to contract award and potential sanctions for non-compliance.
- Monitor MBE & WBE, VBE contractor, subcontractor, designer and subconsultants participation throughout the life of the project, provide technical assistance to support meeting goals, take corrective action when needed.
- Monitor & track minority & women workforce participation, technical assistance, corrective action and final outcomes.
- Report Project MBE/WBE, VBE & workforce metrics annually to SDO (municipal)
   SDO/A&O (state agency).



# Veteran Business Participation Minority & Women Workforce Participation

- Service Disabled and Veteran Owned Business Program (SDVOBE & VBE) current combined SDVOBE/VBE business participation benchmark 3%.
- Minority and Women Workforce Program applies to all state agency and state funded projects.
  - Construction Minority and Women Workforce
     Participation goals for Construction Projects currently:
    - 15.3% minority workers
    - 6.9% women workers

Weekly reporting of worker race/ethnicity and gender on construction projects with certified payrolls.

 Design – Monthly reporting of Minority and Women Workforce Participation for Design Projects. There are no current numeric goals.

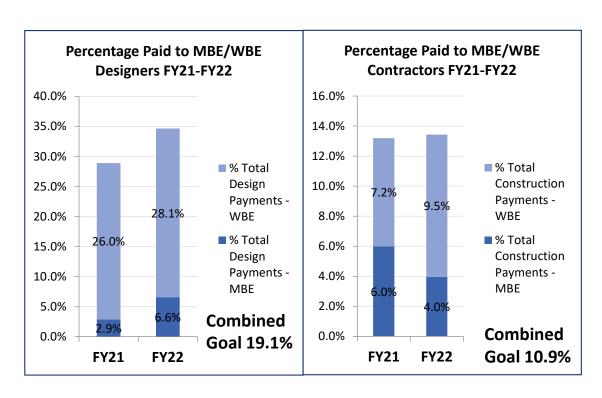






## DCAMM Design & Construction Outcomes-FYs 2021/2022

Design Outcome 2022 - DCAMM	Payments	Percent of Total
Overall Payments	\$ 45.01 M	
MBE Firms Received	\$ 2.99 M	6.64 %
WBE Firms Received	\$ 12.63 M	28.06 %
Total paid to MBE/WBE Firms	\$ 15.62 M	34.70 %
Construction Outcome 2022		
Overall Payments	\$ 286.72 M	
MBE Firms Received	\$ 11.36 M	3.96 %
WBE Firms Received	\$ 27.19 M	9.48 %
Total paid to MBE/WBE Firms	\$ 38.55 M	13.44 %



The Combined Goals above reflect the overall annual goals applicable to DCAMM spending across all of its projects in the FY. The overall annual spending goals changed as of July 2020 and thus these combined goals reflect weighted goals applicable across the active projects procured both before and after that date.



#### **IMPORTANT RESOURCES**

#### DCAMM'S Website www.mass.gov/dcam

Information on Contractor Certification-Model and Sample Design and Construction Procurement Documents and Contracts-Instructions for Emergency Waivers-Prequalification Regulations and Guidance-Affirmative Marketing and Workforce Participation programs and more.

#### Inspector General's Website <a href="https://www.mass.gov/ig">www.mass.gov/ig</a>

Publication "Designing and Constructing Public Facilities" (2021)-Procurement Charts-Information on CM at Risk-Numerous Guidance Documents and Reports-MCPPO Training Program for Public Procurement Officials and others and more.

#### Attorney General's Website www.mass.gov/ag

Information on: Prevailing Wage, Public Bidding, OSHA 10 Act-FAQs on Public Bidding, Bid Protest Decisions and more.

#### Supplier Diversity Office <a href="http://www.mass.gov/sdo">http://www.mass.gov/sdo</a>

Directory of SDO Certified MBE/WBE/VBE firms-Municipal AMP Program resources-Information on SDO certification-Business Resources and more.



#### **Chapter 149 Construction Procurement Documents**

#### Customized for each procurement

- -Instructions for Bidders
- -Owner-Contractor Agreement
- -Cover Page
- -Payment Bond
- -Performance Bond
- -Plans & Specifications
- -Prevailing Wage Rates

Report Completion, Certificate of Final SAMPLE FORMS AVAILABLE ON DCAMM WEBSITE CUSTOMIZABLE FORMS AVAILABLE FROM DCAMM

#### **Standard Documents**

- -Table of Contents
- -Instructions to Bidders Forms Attachment B Sample Certificate of Eligibility, Update Statement, Sample of General & Filed Sub-Bid Forms
- -Owner Contractor Agreement Exhibit B Forms Schedule for Participation, Letter of Intent, Certificates of Corporate Vote-Joint Venture & -Compliance w/State Tax Laws, Workforce Certification, Trench App & Permit
- -General Conditions of Contract
  Appendix A Equal Employment, Non-Discrimination &
  Affirmative Action Program
  Appendix B —Goals for Participation by MBE & WBEs
  Appendix C Commonly Used Forms
  Form of Subcontract, Instructions for Payments-Change
  Orders, Daily Time & Materials, Weekly Payroll
  Form, Certificate of Substantial
  Inspection, etc.

# DCAMM Construction and Design Model Contracts and Forms

Hyperlink: DCAMM

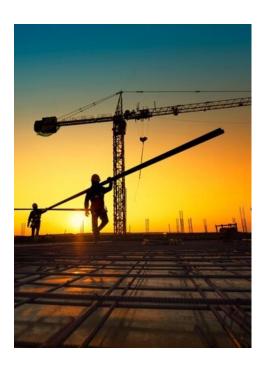
Construction and Design Model

Contract Forms

# **Delegation Training 2023**

# **QUESTIONS AND ANSWERS**





# **Thank You**

# Finance & ISA Issues



# **ISA**

What is an ISA?
What important information does it hold?
What do I do with it?



# COMMONWEALTH OF MASSACHUSETTS INTERDEPARTMENTAL SERVICE AGREEMENT (ISA) FORM

Account information. Complete	for all new ISAs and	l Amendment	s (even if account information is r	ot changing) Check one option,			
indicate "add", "delete" or "no change" and enter account, fund, major program code and program code.							
X BGCN – non-subsidiarized (federal, capital, trust). Attachment C required for any new ISA or ISA Amendment involving federal							
funds.							
BGCS – subsidiarized (budg	BGCS – subsidiarized (budgetary)						
Other (CT, RPO as authoriz	ed by CTR):						
Non-Financial ISA (no fund	s are transferred fro	m Buyer/Pare	ent to Seller/Child), however, resc	ources are committed to ISA.			
Amendment with no Accou	Amendment with no Accounting Changes to Budget/Accounts or to Attachments B or C. (Indicate no change below and						
complete account information.)							
X ADD DELETE NO CHANGE	Account:8900-8500	Fund: 0200	Major Program Code: DCDM	Program Code:DOC1955-FT2			
ADD DELETE NO CHANGE	Account:	Fund:	Major Program Code:	Program Code:			
ADD DELETE NO CHANGE	Account:	Fund:	Major Program Code:	Program Code:			
ADD DELETE NO CHANGE	Account:	Fund:	Major Program Code:	Program Code:			
ISA ANTICIPATED START DATE: 02/17/2016, provided that the Seller/Child certifies that it will not incur any obligations related to this ISA							
prior to the date that this ISA is executed, NOR prior to the date that sufficient funding for the obligations for this ISA is available in							
the Seller/Child account for expenditure.							
This ICA shall be a second of the second of							
TERMINATION DATE OF THIS ISA: This ISA shall terminate on <u>06/30/2020</u> unless terminated or properly amended in writing by the							
parties prior to this date.							



### **ISA Transfer Process**

- DCAMM initiates Interdepartmental Service Agreement (ISA)
  - New Projects
  - Amendments
  - Reallocation requests
  - Return of uncommitted funds
- Documents are routed from DCAMM Department DCAMM Comptroller
- Work cannot be started before ISA approved by Comptroller

# **Project Budget/Payment Requirements**

- Project Budgets established on BQ87 Level 4 MMARS Table
- Project, Phase and Activity (0997) MUST be identified on both Encumbrances and Payment documents entered into MMARS
- Departments cannot authorize work for values that exceed the total budget amount for project.

- Completion of Projects / Reallocation Requests
- Departments must notify DCAMM at completion of projects
- Departments may request reallocation of funds from completed projects
- Cannot assume surplus funds in accounts from other department transfer projects are eligible for use

- Contracting / Record Keeping / Fixed Asset Reporting
- Should include all documents regarding procurement as well as a notice of award and a notice to proceed to contractor with start and end dates.
- Departments are responsible for managing and archiving original contract documents.
- Departments are responsible for fixed asset reporting on transferred funds.

Forms Now Available On DCAMM's **Deferred Maintenance** Webpage

Chapter 149 Construction Bid Document Checklist 2023 **Delegation Closeout Checklist CAMIS Data Collection Form** 

Yes	No	General Requirements				
		Documents Necessary for a Project project to be Advertised:				
		Designer's Cost Estimate (Completed within 12 months of bidding)				
		List of Filed Sub-Bid Categories and required Paragraph E sub-sub bids				
		Project Drawings - Stamped & Sealed				
		Project Specifications with Professional Seals Page Stamped & Sealed				
		Prime Contractor DCAMM Certification Category (28 to select from)				
		Advertising Required in <u>COMMBUYS</u> , <u>NEWSPAPER</u> of general circulation, <u>CENTRAL REGISTER</u> (must be submitted to Central Register by Tuesdays by 4:00 pm to appear in the Central Register on the following Wednesday (8 days later), and <u>AGENCY WEBSITE</u> .				

Yes	No	Specification Review
		Table of Contents/Professional Seals Page
		Verify professional seals page has been stamped and signed
		Verify that all Specifications Sections are listed in Table of Contents and are included in sequential order in specification(s)
		All Filed Sub-bid sections are identified with an asterisk (*) and footer reads * Indicates Filed Sub-Bid Required.
		All sub-sections of Filed Sub-bids (Chapter 149) are identified with (Part of Work of Section XXXXXX, Filed Sub-bid)
		"Unit Prices" Section 012200 and "Alternates" 012300, if not used, should appear in the Table of Contents and labeled "(Not Used)"

## Chapter 149 Construction Bid Document Checklist 2023



# Mandatory as of October 1, 2023 Attach to Project in CAMIS upon project completion Training webinar soon!

**Delegation Closeout Checklist** 

## **CAMIS DATA Form**

LOCATION					CAMIS SYSTEM CODES			
SITE	BUILDING / IMPROVEMENT CODE#	BUILDING / IMPROVEMENT NAME	FLOOR / AREA NAME	ROOM / SPACE #	ROOM / SPACE NAME DESCRIPTION	BUILDING Equipment SYSTEM CLASS	Uniformat Level 4 CODE GoTo 2) RED TAB	Uniformat Level 4 DESCRIPTION
HLY00	256HLY0010	Soldier's Home Holyoke	BASEMENT	B3	MAIN BOILER ROOM	HVAC	D3020.10	Heat Generation
HLY00	256HLY0010	Soldier's Home Holyoke	ROOF	ROOF	ROOF	HVAC	D3050.50	HVAC Air Distribution
HLY00	TBD	Soldier's Home Holyoke	OUTSIDE	na	na	ELECTRICAL	D5010.10	Packaged Generator Assemblies
HLY00	256HLY0010	Soldier's Home Holyoke	ROOF	P-01	PENTHOUSE	HVAC	D3050.50	HVAC Air Distribution
	256HLY0010	Soldier's Home Holyoke	Floor 04	402		ELECTRICAL	D5010.20	Battery Equipment
HLY00	256HLY0601	Chiller Building	Floor 01	101	CHILLER ROOM	HVAC	D3030.10 PASTE HERE	Central Cooling  PASTE HERE

## **CAMIS Data Collection Form**



Delegation Training 2023 June 2023

# **Delegation Training 2023 – Deferred Maintenance**

#### **Deferred Maintenance Liaisons**

Scott Calisti – DHE Liaison scott.calisti@mass.gov

Michael Arcadipane – Community Colleges Liaison michael.arcadipane@mass.gov

Michele Davis – EOPPS, Sheriff's Offices Liaison

michele.davis@mass.gov

Tan Nguyen – EOHHS, EOEEA, EOLWD, MA SEC, UMass Campuses Liaison tan.nguyen@mass.gov

Azinga Ming – Trial Courts, State Universities Liaison azinga.ming@mass.gov

Tom Tagan - Director of Facility Resources francis.tagan@mass.gov



# **Delegation Training 2023**

# **QUESTIONS AND ANSWERS**

