



PROCUREMENT POLICY

The Salem Housing Authority (SHA) has adopted this procurement policy in order to comply with Massachusetts and Federal procurement statutes. This policy reflects the mix of state and federal procurement laws applicable to the SHA, as prescribed in the HUD Handbook 7460.8 Rev 2, 13.5 that requires a public entity to utilize the stricter of the two procurement requirements known as the “COMMON RULE”.

These requirements govern the procurement of supplies, services and real property transactions (MGLc.30B, the Uniform Procurement Act), Vertical and Horizontal Construction related work (MGLc.149§44A-44J; MGL c.149 §44A ½ ; MGL c.149 §44A ¾; MGL c.30 §39M), as amended by Chapter 218 of the Acts of 2016; MGL c.149 §26-27H Massachusetts Prevailing Wage Program, Designer Selection Services (MGL c.7C, §§ 44-57, formerly MGL c.7, §§38A½-O), and Federal procurement requirements as described in 24 CFR Parts 85.36 and 37, as amended and codified by 2 CFR §§200.317-200.326 and 29 CFR Parts 1, 3, 5, 6 and 7 of the Federal Davis Bacon Wage Program.

I PURPOSE AND APPLICATION OF PROCUREMENT POLICY

The purpose of this statement of Procurement Policy is to:

Application. This Procurement Policy applies to all contracts for the procurement of supplies and services; real property transactions; and design and construction contracts by the SHA. The term “contracts” as used in this statement includes Purchase Orders as well as modifications (including change orders) to buy, purchase, rent, lease or otherwise acquire supplies and services.

Public Access to Procurement Information. Procurement information shall be a matter of public record to the extent provided in the Federal Freedom of Information Act, the Massachusetts Public Records Law, and MGL c.149 §44D and shall be available to the public as provided in these statutes.

This procurement policy supersedes any and all previous policies. This policy hereby incorporates by reference all applicable laws and regulations and adheres to the Code of Conduct for Public Employees.

Only the following authorized personnel shall conduct procurement and contracting activities:

1. **Chief Procurement Officer.** The Executive Director shall serve as the Chief Procurement Officer (CPO) for SHA. The CPO shall be responsible for procurements and contracting activities of SHA, and shall also be responsible for the approval and award of any and all procurements for supplies, services, construction, labor and/or equipment and design as presented by the CPO delegated designee. The CPO shall be informed of and all negotiations and/or solicitations conducted or obtained by the delegated designee.

PETTY CASH PURCHASES

Purchases under \$50 may be handled through the use of a petty cash account. Petty Cash Accounts may be established in an amount sufficient to cover small purchases made during a reasonable period, *e.g.*, one month. For all Petty Cash Accounts, the SHA shall ensure that security is maintained and only authorized individuals have access to the account. These accounts should be reconciled and replenished periodically.

SMALL PURCHASE PROCEDURES

For any amounts above the Petty Cash ceiling, but not exceeding \$100,000, the SHA may use small purchase procedures. Under small purchase procedures, the SHA shall obtain a reasonable number of quotes (preferably three); however, for purchases of less than \$2,000, also known as Micro Purchases, only one quote is required provided the quote is considered reasonable. To the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. Quotes may be obtained orally (either in person or by phone), by fax, in writing, or through e-procurement. Award shall be made to the qualified vendor that provides the best value to the SHA. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file. The SHA shall not break down requirements aggregating more than the small purchase threshold (or the Micro Purchase threshold) into several purchases that are less than the applicable threshold merely to: (1) permit use of the small purchase procedures or (2) avoid any requirements that applies to purchases that exceed the Micro Purchase threshold.

COOPERATIVE PURCHASING/INTERGOVERNMENTAL AGREEMENTS

The SHA may enter into State and/or local cooperative or intergovernmental agreements to purchase or use common supplies, equipment, or services. The decision to use an interagency agreement instead of conducting a direct procurement shall be based on economy and efficiency. If used, the interagency agreement shall stipulate who is authorized to purchase on behalf of the participating parties and shall specify inspection, acceptance, termination, payment, and other relevant terms and conditions. The SHA may use Federal or State excess and surplus property instead of purchasing new equipment and property if feasible and if it will result in a reduction of project costs. The goods and services obtained under a cooperative purchasing agreement must have been procured in accordance with 24 CFR 85.36.

INDEPENDENT COST ESTIMATES (ICE) & PRICE REASONABLENESS

For all purchases above the micro purchase threshold, the SHA shall prepare an ice prior to solicitation. The level of detail shall be commensurate with the cost and complexity of the item to be purchased. The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing an analysis, as described in this policy.

(a) Cost and Price Analysis. the SHA shall require assurance that, before entering into a contract, the price is reasonable, in accordance with the following instructions.

(b) Petty Cash and Micro Purchases. No formal cost or price analysis is required. Rather, the execution of a contract by the Contracting Officer (through a Purchase Order or other means) shall serve as the Contracting Officer's determination that the price obtained is reasonable, which may be based on the Contracting Officer's prior experience or other factors.

(c) Small Purchases. A comparison with other offers shall generally be sufficient determination of the reasonableness of price and no further analysis is required. If a reasonable number of quotes is not obtained to establish reasonableness through price competition, the Contracting Officer shall document price reasonableness through other means, such as prior purchases of this nature, catalog prices, the Contracting Officer's personal knowledge at the time of purchase, comparison to the ICE, or any other reasonable basis.

(d) Credit Cards (For Purchasing). Credit card usage should follow the rules for all other small purchases. For example, the Contracting Officer may use a credit card for Micro Purchases without obtaining additional quotes provided the price is considered reasonable. However, for amounts above the Micro Purchase level, the Contracting Officer would generally need to have obtained a reasonable number of quotes before purchasing via a credit card. When using credit cards, the SHA should adopt reasonable safeguards to assure that they are used only for intended purposes (for instance, limiting the types of purchases or the amount of purchases that are permitted with credit cards).

SUSPENSION AND DEBARMENT

Contracts shall not be awarded to debarred, suspended, or ineligible contractors. Contractors may be suspended, debarred, or determined to be ineligible by HUD in accordance with HUD regulations (24 CFR Part 24) or by other Federal agencies, e.g., Dept of Labor or by the Commonwealth of Massachusetts, in accordance with MGL c.29 §29F for violation of labor regulations, when necessary to protect housing authorities in their business dealings.

VENDOR LISTS

All interested businesses shall be given the opportunity to be included on vendor mailing lists. Any lists of persons, firms, or products which are used in the purchase of supplies and services (including construction) shall be kept current and include enough sources to ensure competition.

CONTRACT CLAUSES

All contracts will identify the contract pricing arrangement as well as other pertinent terms and conditions, as determined by the SHA. Additionally, the forms HUD-5369, 5369-a, 5369-b, 5369, 5370, 5370-c, and 51915-a, which contain all hud-required clauses and certifications for contracts of more than \$100,000, as well as any forms/clauses as required by HUD for small purchases, shall be used in all corresponding solicitations and contracts issued by this authority.

CONTRACT ADMINISTRATION

The SHA shall maintain a system of contract administration designed to ensure that contractors perform in accordance with their contracts. These systems shall provide for inspection of supplies, services, or construction, as well as monitoring contractor performance, status reporting on major projects including construction contracts, and similar matters. For cost-reimbursement contracts, costs are allowable only to the extent that they are consistent with the cost principles in hud handbook 2210.18.

SPECIFICATIONS

All specifications shall be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying SHA needs. Specifications shall be reviewed prior to issuing any solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicative items. Function or performance specifications are preferred. Detailed product specifications shall be avoided whenever possible. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. For equipment purchases, a lease versus purchase analysis should be performed to determine the most economical form of procurement.

LIMITATIONS

The following types of specifications shall be avoided:

- (a)** Geographic restrictions not mandated or encouraged by applicable Federal law (except for A/E contracts, which may include geographic location as a selection factor if adequate competition is available);

- (b) Brand name specifications, also known as “proprietary specifications” (unless the requirements of MGL c.30 §39M is adhered to) specifications must list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use).

Nothing in this procurement policy shall preempt any State licensing laws. Specifications shall be reviewed to ensure that organizational conflicts of interest do not occur.

APPEALS AND REMEDIES

It is SHA policy to resolve all contractual issues informally and without litigation. Disputes will not be referred to HUD unless all administrative remedies have been exhausted. When appropriate, a mediator may be used to help resolve differences.

FORMAL APPEALS PROCEDURE. CONTRACTOR CLAIMS

All claims by a contractor relating to performance of a contract shall be submitted in writing to the Contracting Officer for a written decision. The contractor may request a conference on the claim. The Contracting Officer’s decision shall inform the contractor of its appeal rights to the next higher level of authority in SHA. Contractor claims shall be governed by the Changes clause in the form HUD-5370.

ASSISTANCE TO SMALL AND OTHER BUSINESSES - REQUIRED EFFORTS

Consistent with Presidential Executive Orders 11625, 12138, and 12432, and Section 3 of the HUD Act of 1968, all feasible efforts shall be made to ensure that small and minority-owned businesses, women’s business enterprises, and other individuals or firms located in or owned in substantial part by persons residing in the area of the SHA project are used when possible. Such efforts shall include, but shall not be limited to:

- (a) Including such firms, when qualified, on solicitation mailing lists;
- (b) Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
- (d) Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
- (e) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
- (f) Including in contracts, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in **24 CFR Part 135** ; and
- (g) Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above. Goals shall be established periodically for participation by small businesses, minority-owned businesses, women-owned business enterprises, **labor surplus area businesses, and Section 3 business concerns** in SHA prime contracts and subcontracting opportunities.

“Section 3 business concern” is as defined under 24 CFR Part 135.

“Labor surplus area business” is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the DOL in **20 CFR Part 654**,

Subpart A, and in the list of labor surplus areas published by the Employment and Training Administration.

DOCUMENTATION

The SHA must maintain records sufficient to detail the significant history of each procurement action. These records shall include, but shall not necessarily be limited to, the following:

- (a) Rationale for the method of procurement (if not self-evident);
- (b) Rationale of contract pricing arrangement (also if not self-evident);
- (c) Reason for accepting or rejecting the bids or offers;
- (d) Basis for the contract price (as prescribed in this handbook);
- (e) A copy of the contract documents awarded or issued and signed by the Contracting Officer;
- (f) Basis for contract modifications; and
- (g) Related contract administration actions.

The level of documentation should be commensurate with the value of the procurement. Records are to be retained for a period of three years after final payment and all matters pertaining to the contract are closed.

FUNDING AVAILABILITY

Before initiating any contract, the SHA shall ensure that there are sufficient funds available to cover the anticipated cost of the contract or modification.

SELF-CERTIFICATION

The SHA self-certifies that this procurement policy, and the SHA's procurement system, complies with all applicable federal regulations and, as such, the SHA is exempt from prior HUD review and approval of individual procurement action.

PUBLIC ACCESS TO PROCUREMENT INFORMATION

Most procurement information that is not proprietary is a matter of public record and shall be available to the public to the extent provided in the MGL c.66A Freedom of Information Act.

ETHICS IN PUBLIC CONTRACTING

This policy hereby includes, but is not limited to all provisions of cited laws and regulations and adheres to the code of conduct for public employees, consistent with applicable state and federal laws and regulations and supersedes any and all previous policies.

CONFLICTS OF INTEREST

No employee, officer, Board member, or agent of the SHA shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, would be involved. This type of conflict would be when one of the persons listed below has a financial or any other type of interest in a firm competing for the award:

An employee, officer, Board member, or agent involved in making the award;

His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-

law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister);

His/her partner; or

An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

GRATUITIES, KICKBACKS, AND USE OF CONFIDENTIAL INFORMATION

No officer, employee, Board member, or agent shall ask for or accept gratuities, favors, or items of more than \$25 in value from any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain.

PROHIBITION AGAINST CONTINGENT FEES

Contractors wanting to do business with the SHA must not hire a person to solicit or secure a contract for a commission, percentage, brokerage, or contingent fee, except for bona fide established commercial selling agencies. In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with these Policies, automatically supersede these Policies.

FEDERAL PROCUREMENT FILE CHECKLIST

The following table lists the types of documentation that generally should be included in the contract file for each procurement. Note, however, that the circumstances of each procurement will dictate the documentation required. For example, an RFP for Property Management Services would not necessarily require a separate cost analysis if there were an ample number of price proposals and the costs (management fees) were within the range established in the ICE. Similarly, for small purchases, the issuance of a purchase order will likely serve as a Notice to Proceed; however, for some very technical services acquired under small purchases, the SHA might want to hold a post-award meeting and then issue a Notice to Proceed. In all, the contract file should contain all significant documentation relating to the specific procurement. Any shaded item would generally not apply for that type of purchase.

Item	Micro Purchase	Small Purchase	Sealed Bid	Competitive Proposals	Non-Competitive Proposals
PRE-SOLICITATION					
Independent Cost Estimate					
Individual Procurement Plan					
Rationale for Contract Method (if not apparent)					
Rationale for Contract Type (if not apparent)					
Evaluation Plan					
SOLICITATION					
Sources (mailing lists, advertisements, etc.)					
Solicitation Notice and Amendments					
IFB/RFP					
Notes of Pre-Bid/Proposal Conferences					
IFB/RFP Correspondences					
Record of Bids/RFPs Requested					
Quotes, Bids or Proposals Received					
Justification for Other than Full/Open Competition					
EVALUATION					
Bid Opening					
Evaluation Panel Disclosures and Ethics Statement					
Technical Evaluation					
Price Evaluation					
Competitive Range Determinations					
Evaluation Report					
Memo of Negotiation and Selection Decision					
Pre-award Survey and Responsibility Determinations					
AWARD					
Contract and Award Documents					
Notification to Unsuccessful Bidders					
Appeals (all correspondence)					
POST-AWARD AND CONTRACT ADMINISTRATION					
Insurance and Bonding Requirements					
Records of Post-Award Conferences					
Notice to Proceed					
Contract Modifications and Supporting Documentation					
Receiving Reports					
General Contract Correspondence					
Payment Record/Documentation					
Inspections and Field Reports					
Completion Certificate					

FEDERAL PROCUREMENT MATRIX – 24 CFR PART 85

	Small Purchases		Sealed Bids	Competitive Proposals	Non-competitive Proposals
	Micro Purchases Up to \$2,000	\$2,000 to \$100,000	\$100,000 and higher	\$100,000 and higher	
Wage Rates	Not required	Required for maintenance & construction contracts	Required for maintenance & construction contracts	Not required (unless used for construction and maintenance)	Required for construction & maintenance
Required HUD Forms	None	Table 5.1, <i>plus</i> HUD- 5370-EZ (if construction) or HUD-5370-C, Section II (if maintenance)	<u>Non-Construction</u> HUD-5369-B, HUD-5370-C <u>Construction</u> HUD-5369 HUD-5369-A HUD-5370	<u>Non-Construction</u> HUD-5369-B HUD-5369-C HUD-5370-C <u>A/E:</u> HUD-5369-B HUD-5369-C HUD-51915 or HUD-51915-A	See small purchases, sealed bids and competitive proposals
Check List Parties Excluded from Federal Procurement	No	Required	Required	Required	Required 30

	Small Purchases		Sealed Bids	Competitive Proposals	Non-competitive Proposals
	Micro Purchases Up to \$2,000	\$2,000 to \$100,000	\$100,000 and higher	\$100,000 and higher	
Independent Cost Estimate	Not required	Required (minimum documentation)	Required (detail commensurate with complexity)	Required (detail commensurate with complexity)	Required
Competition	No required competition but price must be reasonable	Solicit REASONABLE number of written or verbal quotes (recommend 3)	<ul style="list-style-type: none"> • Specification • IFB • Advertise • Open publicly 	<ul style="list-style-type: none"> • Scope of Work • RFP • Evaluation Factors • Advertise • Evaluate Proposals • Evaluation Report 	Sole source or only one bidder

	Small Purchases		Sealed Bids	Competitive Proposals	Non-competitive Proposals
	Micro Purchases Up to \$2,000	\$2,000 to \$100,000	\$100,000 and higher	\$100,000 and higher	
Award Contract	Use Purchase Card or Purchase Order	Awarded to "Best Value" Usually low price	<ul style="list-style-type: none"> • Awarded to lowest, most responsible bidder • Fixed Firm Price Contract 	Awarded to Most Advantageous (based on Evaluation Factors)	<ul style="list-style-type: none"> • Justification • HUD Approval (if PHA has not previously certified procurement system meets requirements)
Price/Cost Analysis	Signature signifies that the cost is reasonable	Effective competition should assure price is reasonable	Effective competition should assure price is reasonable	Cost Analysis (may be required where it is difficult to compare price proposals)	Cost Analysis
Bonding Requirement	Not Required	Not Required	Required for construction	Not Required	Required for construction 32

STATE PROCUREMENT PROCEDURES

MGL C. 30B - PROCUREMENT OF SUPPLIES AND SERVICES (NON-CONSTRUCTION)

Under Chapter 30B it is the awarding authority's estimate which determines the bidding procedures to be utilized for the procurement of supplies and services. It is the actual bid amount/contract price that allows a housing authority to award a contract that exceeds the dollar threshold of the bidding procedure utilized. **Chapter 30B also does allow contract increases to exceed twenty-five (25%) percent** except for contracts to purchase of gasoline, special fuel, fuel oil, road salt and other ice and snow control supplies.

1. **Small Procurements under 10,000. MGL c.30B§4 - Use Sound Business Practices.** Sound Business Practices" is defined as "ensuring the receipt of a favorable price by periodically soliciting price lists or quotes". While the definition does not require a formal competitive process for small procurements **under \$10,000**, it requires governmental bodies to ensure that they have received the needed quality of supplies and services at a reasonable price. The Executive Director, hereinafter referred to as the Chief Procurement Officer (CPO) or his/her authorized designee shall make small procurements as necessary **under \$10,000** in the open market ensure that the price obtained is the most advantageous to the SHA. The purchase will be made from the responsible person offering the best price. Written record will be kept. Purchases may be made from OSD.

2. **Solicit Quotes. MGL c.30B§4** - For the procurement of supplies and services estimated to cost between **\$10,000 and \$50,000**, the CPO or his/her authorized designee shall use a written purchase description to solicit written quotations from no fewer than three (3) persons who customarily provide the supply or service. However, this does not require receiving three (3) quote responses. The SHA may award a contract on the basis of one or two quotes received. The SHA may also purchase from the OSD. The CPO must keep on file a record of all price quotations sought including names, addresses, and the dates and amounts of quotations. All documents relating to purchases and contracts under this section must be kept for a period seven (7) years from date of final payment. Use DHCD's Contract for Supplies & Services for IFB procurements involving state funds which is updated from time to time. **All contracts in the amount of \$10,000 or more shall be in writing and fully executed contract. No payments shall be made for a supply or service rendered prior to the execution of such a contract.**

3. **Invitations to Bid (IFB). MGL c.30B§5** - For procurements estimated to cost **over \$50,000** the CPO or his/her authorized designee must use the sealed Invitation to Bid (IFB) process in accordance with MGL c.30B §5. Notice must be posted in the SHA's office, published in a newspaper and on COMMBUYS once, two (2) weeks before the bids are due. Procurements of a **\$100,000** or more shall also be advertised at least 2 weeks before bids are due in the Goods and Services Bulletin. The contract shall be awarded to the responsible and responsive bidder offering the best price. Use DHCD's Contract for Supplies & Services for IFB procurements involving state funds which is updated from time to time. Contracts may be entered into for a term of up to **three (3) years**, including renewals, extensions, or options. If a longer term or options to extend are desired it must be voted by a majority of the Board **prior to the procurement.**

The CPO must keep on file with regard to every solicitation made all documents relating to these procurements under this section and shall be kept for a period of seven (7) years from date of final payment. This includes a copy of Invitation to bid, all bids received, a record of names, addresses, and the amount of bids.

4. **Requests for Proposals (RFP).** The housing authority is required to justify using the RFP process in MGL c.30B §6 for procurements estimated to cost **over \$50,000** vs. the IFB process identified in (3) above.

This process requires that the CPO or his/her authorized designee must provide the board with written justification as to why it is advantageous and in the public interest to use this process. Criteria must be developed for each task; (MGL c.30B §6). Criteria are Highly Advantageous, Advantageous, Not Advantageous, or Unacceptable. The SHA may not use a numeric scoring system. Two separate envelope bid submission process. An Evaluation Committee must be appointed; **(May not consist of SHA board)**. This process allows the contract to be awarded to bidder who has the most advantageous proposal from a responsible and responsive proposer taking into consideration price and non-price proposals.

Notice must be posted in the SHA's office, published in a newspaper and on COMMBUYS once, two (2) weeks before the proposals are due. Procurements of a **\$100,000** or more shall also be advertised at least 2 weeks before bids are due in the Goods and Services Bulletin.

If the purchase is made from any vendor other than one offering the lowest price on IFB procurement, justification for such a bid rejection shall be in writing and kept with the bid documents.

5. **Procurement Exemptions - MGL c.30B §1(b)** - Chapter 30B has 34 exemptions for the procurement of supply and service contracts. The entire list of exemptions that are in effect at the time this policy is adopted and attached to this policy. (Exemption List is attached)

6. **Emergency Procurements - MGL c.30B §8.** If the time required to comply fully with a Chapter 30B procurement would endanger the health or safety of people or property due to an unforeseen emergency, the **needed supply or service** may be procured without comply with the Chapter 30B requirements. An emergency procurement form must be submitted as soon as possible to the Goods and Services Bulletin for publication. **This process cannot be used for construction related emergency procurements.**

7. **Sole Source Procurements - MGL c.30B §7.** The SHA may make a sole source procurement of any supply or service under \$35,000 when a reasonable investigation shows that there is only one practicable source for the required supply or service. For sole-source procurement estimated to cost \$35,000 or more the SHA is still required to advertise using the c.30B IFB or RFP process. The determination that only one practical source exists must be voted on by the board and published in the Goods & Services Bulletin.

8. **Disposition of Surplus Supplies - MGL c.30B §15.** The term **"surplus supplies"** **does not include real property**. The SHA can swap surplus supplies with another jurisdiction because it would be exempt from Chapter 30B as an intergovernmental agreement. The SHA will apply Chapter 30B to all tangible surplus supplies including motor vehicles, machinery, computer equipment, furniture, and other materials and supplies. SHA may disposal of surplus supplies with an estimated net value of less than \$10,000 using any method allowed under written procedures established by the SHA. For supplies with a resale or salvage value of \$10,000 or more, SHA can use any of three alternate methods of sale: (1) sealed bids, (2) public auction, or (3) an established market. You may also trade in supplies when making new purchases. Or, if approved by a majority vote of the governing body in your jurisdiction, you may donate surplus supplies to a charitable organization.

9. **Acquisition of Real Property - MGL c.30B §16** applies to the purchase, sale, lease, or rental of real property. Real property is defined as property consisting of land, buildings, crops, or other

resources still attached to or within the land or improvements or fixtures permanently attached to the land or a structure on it by purchase or rental. Must issue an RFP to acquire real property by lease or purchase at a cost of more than \$35,000. **Unique Acquisitions do not required an RFP process to acquire property if the SHA has determined that it needs a particular piece of property because of its unique qualities or location. (See procedures in Massachusetts Inspector General's Manual)**

10. Disposition of Real Property - MGL c.30B §16. SHA must issue an RFP to dispose of real property with a value of more than \$35,000. Procedures are triggered by the value of the property, not the price received for the disposition. If SHA is leasing space, it will determine the value of the disposition by calculating the lease price over the entire contract term. Regardless of its value, SHA must declare and make a determination to make land available for disposition. If there are restrictions on reuse of the property, they must be specified as part of the declaration that the property is available for disposition. **(See procedures in Massachusetts Inspector General's Manual for the Procurement of Goods & Services)**

- (a) Roof Top Antennas. Procurement required. Must use the DHCD RFP and Lease;
- (b) Utility Companies and Commercial/Marketing Agreements. These are disallowed by DHCD and HUD. (See DHCD Public Housing Notice No. 2007-04) and HUD memorandum dated June 19, 2008.

11. Contract Funding. All procurement of equipment, materials, and non-personnel services shall be documented. Expenditures shall be supported by receipts and shall be made by standard purchase order. Each purchase, regardless of dollar amount, shall be approved by the CPO or his/her designee. On a monthly basis, in advance, the Financial Administrator shall indicate to the CPO the amount of dollars in each program available in order to have sufficient funds available for payment. Purchase orders shall be filed with the resulting purchase documents.

12. General Services Administration (GSA) Purchases. MGL c.30B, §1(f), permits the purchase of goods **(not services)** specified under General Services Administration (GSA) federal supply schedules that are available for use by local governmental bodies from authorized GSA vendors without a MGL c.30B process. **As of July, 2012 you may not use the above contracts for the procurement of construction materials in excess of \$10,000.00.**

DESIGN CONTRACTS

DHCD Funded Design Contracts for Building Projects

M.G.L. c.7C, §§44-57 contains procedures for selecting designers for **building projects** through an advertised, competitive, qualifications-based selection (QBS) process. The law applies to any contract for design services for any building construction, reconstruction, alteration, remodeling, or repair project that has an estimated construction cost of more than **\$100,000 and if the design fee is estimated to cost \$10,000 or more.** DHCD has available "House Doctor" and "House Doctor Light" Programs for DHCD funded projects.

(1) Design Services include the preparation of master plans, feasibility and other studies, surveys, soil tests, cost estimates or programs; preparation of drawings, plans, and specifications, including schematic and preliminary designs; supervision or administration of a construction contract; and construction management and scheduling; and, it also applies to contracts with consultants who are not architects and engineers if the consultants provide any of the services that fall within the definition of "design services" set forth in Section 44 of Chapter 7C . Design services such as the preparation of a

study evaluating alternatives and recommending solutions involving work on a building may be undertaken by someone other than an architect or engineer.

(2) **Exemptions.** The designer selection law does not apply to contracts for the design of non-building, or public works, projects such as highway and sewer projects, modular construction or energy management services governed by MGL c.25A §11(c) .

(3) SHA must follow the procedures established by the Department of Housing and Community Development (DHCD) for design services involving state-funded housing. DHCD's procedures follow the M.G.L. c. 7C process and are approved by the state DSB. DHCD's procedures prescribe the role of DHCD and of the SHA in the selection process.

For design services for federally funded housing, housing authorities are mandated by the U.S. Department of Housing and Urban Development (HUD) rules to select designers

(4) Design contracts for building projects Estimated Construction Cost of \$100,000 or less OR Estimated Design Fee less than \$10,000.

For design services for state funded building projects with **estimated Construction costs of \$100,000 or less OR an estimated design fee less than \$10,000** the SHA shall solicit proposals based on qualifications and prices from at least three registered designers. The SHA may also request a "House Doctor Lite" from DHCD for projects under \$25,000.00.

(5) Design contracts for building projects Estimated Construction Cost of more than \$100,000 AND Estimated Design Fee of \$10,000 or more.

For design services for state funded building projects with **estimated Construction costs of \$100,000 or more AND an estimated design fee more than \$10,000** the SHA must use a qualifications-based selection process. The SHA must either (1) set the design fee; or (2) set a not-to-exceed fee limit and then negotiate the fee with the top-ranked designer within the fee limit.

The project must be advertised in the *Central Register* and the local newspaper at least two weeks before the deadline for filing applications. The SHA will follow its designer selection procedure. The "Standard Designer Application Form for Municipalities and Public Agencies not with DSB Jurisdiction" must be used. A designer evaluation must be submitted to DCAMM and the Designer Selection Board. The designer must be registered and insurance is required in 10% of the total cost of the project or \$1 million, whichever is less. Prevailing wage does not apply.

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

When construction contracts are procured under the following methods, the SHA shall apply for Mass Prevailing Wage Rates in accordance with MGL c.149 §26-27A regardless of dollar amount. Project must be bid within 90 days of receipt of Mass Prevailing Wage Rates.

Under the "COMMON RULE and Massachusetts Case Law the following procedures are applicable to federally funded developments except that Davis Bacon Wage Rates are applicable.

(1) For building related construction contracts which **include labor & materials** estimated to cost **under \$10,000**, the CPO or his/her authorized designee shall follow MGL c.149 §44A(2)(A) and may

award using **Sound Business Practices**. "Sound Business Practices" is defined as "ensuring the receipt of a favorable price by periodically soliciting price lists or quotes. This is not a sealed bid process. Use the appropriate DHCD "front end". The SHA may purchase off the OSD or Blanket Contract Option.

The following are **not** required: DCAMM certification, OSHA training, prequalification, filed sub-bids, bid deposits, payment bond, performance bond, contractor evaluation.

The SHA must keep a record which, at a minimum, must include the name & address of the person from whom the services were procured.

(2) For building related construction contracts which **include labor & materials** estimated to cost between **\$10,000 to \$50,000** the CPO or his/her authorized designee shall follow MGL c.149 procedures. The SHA must use a written scope of work statement to solicit written responses from no fewer than 3 persons who customarily perform such work. This is not a sealed bid process. Use the appropriate DHCD "front end". Contract will be awarded to the responsible person at the lowest price. The SHA may purchase off the OSD or Blanket Contract Option.

A notice must be posted at least 2 weeks before responses are due on COMMBUYS, in the *Central Register*, and in a conspicuous place near the office. Notice shall include scope of work, statement defining the work to be performed, work requirements, time of completion, and submission requirements, i.e., mail, fax, or e-mail.

The following **are** required: 50% payment bond is required if the contract is more than \$25,000 and prevailing wages.

The following are **not** required: DCAMM certification, OSHA training, prequalification, filed sub-bids, bid deposit, performance bond, and contractor evaluation.

(3) For building related construction contracts which **include labor & materials** estimated to cost **over \$50,000 to \$150,000** the CPO or his/her authorized designee shall follow the sealed bid procedures of MGL c.149 and identified in MGL c.30 §39M. Use the appropriate DHCD "front end". The SHA may **not** purchase off the OSD or Blanket Contract Option.

A notice must be posted for at least 1 week before bids are due in a conspicuous place in the office and must be published at least 2 weeks before bids are due in the *Central Register*, in a newspaper, and on COMMBUYS.

The following **are** required: OSHA training, 5% bid deposit, 50% payment bond, and prevailing wages. The following are **not** required: DCAMM certification, prequalification, filed sub-bids, performance bond, and contractor evaluation.

(4) For building construction contracts which **include labor & materials** estimated to cost **over \$150,000** (contracts for the construction, demolition, maintenance, or repair of a building (vertical construction)) the CPO or his/her authorized designee shall follow the sealed bid procedures required under MGL c.149 §44A-J. Use the appropriate DHCD "front end". The SHA may **not** purchase off the OSD or Blanket Contract Option.

A notice must be posted for at least 1 week before bids are due in a conspicuous place in the office and must be published at least 2 weeks before bids are due in the *Central Register*, in a newspaper, and on COMMBUYS.

The following **are** required: DCAMM certification for General Bidders if more than \$150,000 and for filed sub-bidders if more than \$25,000, OSHA training, prequalification optional, filed sub-bids if more than \$25,000, 5% bid deposit, 100% payment bond, 100% performance bond, prevailing wages, and contractor evaluation.

(5) For building construction contracts which **include labor & materials** estimated to cost **over \$10,000,000** (contracts for the construction, demolition, maintenance, or repair of a building (vertical construction) the CPO or his/her authorized designee shall follow the sealed bid procedures required under MGL. c.149 §44A-J. The SHA must solicit statements of qualifications prior to soliciting sealed bids. The SHA may **not** purchase off the OSD or Blanket Contract Option.

The SHA will advertise the request for qualifications at least 2 weeks before responses are due in a newspaper, the *Central Register*, and on COMMBUYS and 1 week before in a conspicuous place in the office.

The following **are** required: DCAMM certification for General Bidders if more than \$150,000 and for filed sub-bidders if more than \$25,000, OSHA training, prequalification, filed sub-bids if more than \$25,000, 5% bid deposit of the value of the total bid or sub-bid, 100% payment bond, 100% performance bond, prevailing wages, and contractor evaluation.

(6) **MGL c.149A1/2 requires an Owners Project Manager (OPM) on projects estimated to cost \$1.5M.**

(7) For building related construction contracts estimated to cost **\$10,000,000** or more (contracts for the construction, demolition, maintenance, or repair of a building the CPO or his/her authorized designee shall follow the pre-qualification process and sealed bid procedures required under MGL c.149 §44D ½ and MGL c.149 §44D ¾.

(8) On state developments all bids and construction **contracts \$25,000 or more not in the regular approved budget** must be sent to DHCD for review and approval prior to contract execution which must be **validated by DHCD**. The Board shall vote to award to the lowest eligible responsible bidder subject to DHCD approval.

(9) The CPO must keep on file with regard to every price quotation or solicitation made all documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from date of final payment. A copy of bid forms received a record of names, addresses, and the amounts of bids (tabulation).

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

(1) For Public Works (non-building related) construction, *i.e.*, site work (horizontal construction) estimated to cost **under \$10,000 which includes labor & materials** the CPO or his/her authorized designee shall use **Sound Business Practices** as prescribed in M.G.L. c.30 § 39M and as defined in MGL c.30B §2. Use the appropriate DHCD "front end". The SHA may purchase off the OSD or Blanket Contract Option.

(2) For Public Works (non-building related) construction, *i.e.*, site work (horizontal construction) estimated to cost between **\$10,000 - \$50,000 which includes labor & materials** the CPO or his/her authorized designee shall use a written scope of work statement to solicit written responses from no

fewer than 3 persons who customarily perform such work. Use the appropriate DHCD “front end”. The SHA may purchase off the OSD or Blanket Contract Option. The contract will be awarded to the lowest responsible bidder

A notice must be posted at least 2 weeks before responses are due on COMMBUYS, in the *Central Register*, and in a conspicuous place near our office.

The following **are** required: OSHA training, 50% payment bond if contract is more than \$25,000, and prevailing wages.

The following are **not** required: Prequalification, bid deposit, and performance bond.

(3) For Public Works (non-building related) construction, *i.e.*, site work (horizontal construction) estimated to cost **over \$50,000 which includes labor & materials** the CPO or his/her authorized designee shall advertise for sealed bids in accordance with MGL c.30 §39M. The SHA may **not** purchase off the OSD or Blanket Contract Option.

A notice must be posted in the office for at least one week before bids are due, and at least 2 weeks before bids are due it must be published in the *Central Register*, a newspaper, and on COMMBUYS.

The following **are** required: OSHA training, prequalification (optional), 5% bid deposit, 50% payment bond, and prevailing wages.

The following is **not** required: performance bond.

(4) Option: For Public Works (non-building related) construction, *i.e.*, site work (horizontal construction) estimated to cost **\$50,000 or less which includes labor & materials** the CPO or his/her authorized designee may advertise for sealed bids in accordance with MGL c.30B §5 Option. The SHA may **not** purchase off the OSD or Blanket Contract Option.

A notice must be posted at least 2 weeks before bids are due in the office and published in a newspaper, on COMMBUYS and in the *Central Register*,

The following **are** required: OSHA training, 50% payment bond if the contract is more than \$25,000, and prevailing wages.

The following are **not** required: prequalification, 5% bid deposit, and performance bond.

M.G.L. c. 30 § 39M CONSTRUCTION MATERIALS PROCUREMENT (WITHOUT LABOR)

(1) For the purchase of **construction materials only (NO labor)** estimated to cost **under \$10,000** the CPO or his/her designee under M.G.L. c.30, §39M will use **Sound Business Practices** (as defined in MGL c.30B §2. The SHA will use a written product specification for this particular procurement. The SHA may purchase from the OSD or Blanket Contracts.

For the purchase of **construction materials only (NO LABOR)** estimated to cost between **\$10,000 - \$50,000** the CPO or his/her designee under MGL c.30 §39M will use a written scope of work statement to solicit written responses from no fewer than 3 persons who customarily perform such work. The contract will be awarded to the lowest responsible bidder. The SHA may purchase off the OSD or Blanket Contract Option.

The SHA will post a notice at least 2 weeks before responses are due on COMMBUYS, in the *Central Register*, and in a conspicuous place near our office.

The following **is** required: 50% payment bond if contract is more than \$25,000

The following are **not** required: OSHA training, prequalification, 5% bid deposit, performance bond, and prevailing wage.

(3) For the purchase of **construction materials** only (**NO LABOR**) estimated to cost **over \$50,000** the CPO or his/her designee under MGL c.30 §39M will solicit **sealed bids**. The SHA may purchase off the OSD or Blanket Contract Option. The SHA may **not** purchase from a Blanket Contracts. The contract will be awarded to the lowest responsible bidder.

The SHA will post a notice a notice in our office for at least 1 week before bids are due and at least 2 weeks before bids are due publish in the *Central Register*, newspaper, and COMMBUYS.

The following **is** required: 5% bid deposit and 50% payment bond.

The following is **not** required: OSHA training, prequalification, performance bond, and prevailing wage.

(4) **Option:** For the purchase of **construction materials** only (**NO labor**) **any cost** the CPO or his/her designee under MGL c.30B §5 may solicit sealed bids. The SHA may **not** purchase off the OSD or Blanket Contract Option. The contract will be awarded to the lowest responsible bidder.

The SHA will post a notice a notice at least 2 weeks before bids are due in the office and publish in a newspaper, on COMMBUYS, and in the *Central Register*.

The following **is** required: 50% payment bond if contract is more than \$25,000.

The following is **not** required: OSHA training, prequalification, 5% bid deposit, performance bond, and prevailing wage.

The CPO shall keep on file a record of invitation made and offers received, a record of names, addresses, and the amounts of bids shall be kept in the file with regard to every solicitation made. All documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from date of final payment. A copy of invitation made and offers received a record of names, addresses, and the amounts of bids.

PURCHASING FROM DEPARTMENTAL OR STATEWIDE CONTRACT LISTS, GSA OR COOPERATIVE CONTRACTS

Construction materials (NO LABOR) estimated to cost \$10,000 or more **MAY NOT** be purchased from General Services Administration (GSA) federal supply schedules (M.G.L. c.30B, §1(f)), or cooperative contracts (M.G.L. c.30B, §22). These provisions relate to compliance with M.G.L. c.30B for the procurement of supplies and services only.

THE BOARD

(1) The CPO shall submit all bids and quotes \$10,000 and up at the next regular meeting and the Board must vote to authorize the award of the bid.

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

DELEGATION OF PROCUREMENT OFFICER'S POWERS AND DUTIES

It is recommended that the SHA Board vote to delegate certain powers and duties to the Executive Director and designate the Executive Director as the Chief Procurement Officer. A delegation shall be in writing, be signed by the Board, and state the activity or function authorized and the duration of the delegation. A delegation may be in specific or general terms, may be limited to a particular procurement or class of procurements, and may be conditioned upon compliance, with specified procedures. A delegation may be revoked or amended whenever the chief procurement officer determines that revocation or amendment is in the best interests of the governmental body. A delegation of power or duties by a procurement officer and any revocation or amendment thereof shall not take effect until a copy of the same has been filed with the office of the inspector general.

(HUD requires the signature of a board member on contracts).

BOARD APPROVAL OF PROCUREMENT ACTIONS

Approval by the Board of Commissioners is required for any procurement action, as permitted under State and local law.

DELEGATION OF CONTRACTING AUTHORITY

While the Executive Director is responsible for ensuring that the SHA's procurements comply with this Policy, the Executive Director may delegate all procurement authority as is necessary and appropriate to conduct the business of the Agency. Further, and in accordance with this delegation of authority, the Executive Director shall, where necessary, establish operational procedures to implement this Policy.

MGL c.30B EXEMPTIONS

MGL c.30 §1 exempts the following contracts for the procurement of supplies, services or real property and for disposing of supplies or real property by a governmental body.

- (1) a contract subject to the provisions of section thirty-nine M of chapter thirty, section 11C or section 11I of chapter 25A or sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine;
- (2) a contract subject to the provisions of sections thirty-eight A1/2 to thirty-eight O, inclusive, of chapter seven;
- (3) an intergovernmental agreement subject to the provisions of section four A of chapter forty;
- (4) a transaction with the commonwealth, except as pertains to subsection (i) of section 16;
- (5) a contract for the purchase of materials, under specifications of the state department of highways, and at prices established by the department, pursuant to advertising and bidding for such purpose, in connection with work to be performed under the provisions of chapter eighty-one or chapter ninety;
- (6) a contract for the advertising of required notices;
- (7) an agreement between agencies, boards, commissions, authorities, departments or public instrumentalities of one city or town;
- (8) an agreement for the provision of special education pursuant to chapter seventy-one B and regulations promulgated pursuant thereto;
- (9) a contract to purchase supplies or services from, or to dispose of supplies to, any agency or instrumentality of the federal government, the commonwealth or any of its political subdivisions or any other state or political subdivision thereof;
- (10) the issuance of bonds, notes or securities in accordance with procedures established by law;
- (11) contracts and investments made in accordance with sections fifty-seven or fifty-seven A of chapter thirty-five or sections sixty-seven or sixty-seven A of chapter forty-four;
- (12) a contract for the procurement of insurance or surety bonds, including an agreement subject to the provisions of sections one to sixteen, inclusive, of chapter forty M or the provisions of sections twenty-five E to twenty-five U, inclusive, of chapter one hundred and fifty-two;
- (13) contracts for the services of expert witnesses for use in an adjudicatory proceeding or litigation or in anticipation thereof;
- (14) any contracts or agreements entered into by a municipal gas or electric department governed by a municipal light board, as defined by section fifty-five of chapter one hundred and sixty-four or by a municipal light commission, as defined by section fifty-six A of said chapter one hundred and sixty-four; provided, however, that any such board or commission may accept the provisions of this chapter by a majority vote of its members;
- (15) contracts with labor relations representatives, lawyers, or certified public accountants;

(16) contracts with physicians, dentists, and other health care individuals or persons including nurses, nurses' assistants, medical and laboratory technicians, health care providers including diagnosticians, social workers, psychiatric workers, and veterinarians;

(17) a contract for snow plowing by a governmental body;

(18) a contract or lease by a governmental body of its boat slips, berths, or moorings;

(19) a contract for retirement board services;

(20) a contract which is funded by proceeds derived from a gift to a governmental body or a trust established for the benefit of a governmental body;

(21) a contract for the towing and storage for motor vehicles;

(22) a contract to provide job-related training, educational or career development services to the employees of a governmental body;

(23) a contract pursuant to which a governmental body obtains services from a bank, as defined in section one of chapter one hundred and sixty-seven, subject to the maintenance of a compensating balance;

(24) a contract for ambulance service by a governmental body;

(25) a contract to sell lease or acquire residential, institutional, industrial or commercial real property by a public or quasi-public economic development agency or urban renewal agency engaged in the development and disposition of said real property in accordance with a plan approved by the appropriate authorizing authority;

(26) a contract for the collection of delinquent taxes or for the services of a deputy tax collector;

(27) contracts or agreements entered into by a municipal hospital or a municipal department of health;

(28) contracts entered into by a governmental body on behalf of a hospital owned by such governmental body where such contract is funded by expenditures from an operations account, so-called, or a special account, established pursuant to a special act that is maintained for the benefit of and designated with the name of such hospital;

(29) any contracts, agreements or leases entered into by a municipal airport commission established under the provisions of section fifty-one E of chapter ninety; provided, however, that such contracts, agreements or leases apply to aviation uses or the sale of aviation fuel;

(30) a contract for the collection, transportation, receipt, processing or disposal of solid waste, recyclable or compostable materials;

(31) an agreement for the purchase of photography services entered into by a public school;

(32) energy aggregation contracts entered into by a political subdivision of the commonwealth for energy or energy related services arranged or negotiated by such subdivision on behalf of its residents;

(32A) contracts with architects, engineers and related professionals;

(33) energy contracts entered into by a city or town or group of cities or towns or political subdivisions of the commonwealth, for energy or energy related services; provided, however, that within 15 days of the signing of a contract for energy or energy related services by a city, town, political subdivision, or group of cities, towns or political subdivisions said city, town, political subdivision, or group of cities, towns or political subdivisions shall submit to the department of public utilities, the department of energy resources, and the office of the inspector general a copy of the contract and a report of the process used to execute the contract; provided, further, that for any such contract determined to contain confidential information under subclause (r) of section 7 of chapter 4, the governmental body shall instead maintain a record of the procurement processes and awards for 6 years after the date of the final payment. The governmental body shall make such records available to the inspector general upon request; provided, however, that the inspector general shall not disclose said information; or

(34) a contract made in accordance with section 5 of chapter 111C.

(c) This chapter shall be deemed to have been complied with on all purchases made under the provisions of sections twenty-two A and twenty-two B of chapter seven when one political subdivision, as defined in said section twenty-two A, acting on behalf of other political subdivisions, complies with the provisions of this chapter, or when purchases are made from a vendor pursuant to a contract with the commonwealth for the item or items being purchased.

(d) Where a procurement involves the expenditure of federal assistance or contract funds, the provisions of this chapter shall not apply to the extent that such provisions prevent compliance with mandatory provisions of federal law and regulations.

(e) Notwithstanding the provisions of any general or special law to the contrary, a governmental body may enter into a contract, in conformance with this chapter, for the construction and for services at a facility owned by a private party or parties, whether such facility will be located on public or private land for the disposal, recycling, composting or treatment of solid waste, sewage, septage or sludge without said contract being subject to the competitive bid process as set forth in sections thirty-eight A1/2 to thirty-eight O, inclusive, of chapter seven, section thirty-nine M of chapter thirty, or sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine; provided, however, that this subsection shall not apply to a procurement of proprietary environmental technology in accordance with subsection (5) of section forty-four A of chapter one hundred and forty-nine.

(f) This chapter shall be deemed to have been complied with on all purchases made from a vendor pursuant to a General Services Administration federal supply schedule that is available for use by governmental bodies.

DEFINITIONS OF BUILDING RELATED CONSTRUCTION WORK

Acoustical Tile - Installation of tile-shaped blocks of sound-absorbent material used for ceilings or as wall facing within a building.

Alarm Systems - Installation, renovation, repair and maintenance of low voltage fire protection, security, card access entry systems, closed circuit television systems, motion detectors, and other types of alarms systems within a building.

Asbestos Removal - Removal and disposal of asbestos previously incorporated into a building, which may include encapsulation.

Deleading - The undertaking of lead abatement projects involving one or more of the following: scraping and/or chemical stripping of lead paint, encapsulation and covering of lead contaminated surfaces, or removal and replacement of windows, woodwork or other contaminated surfaces within a building.

Demolition - Building wrecking contractor including the razing of buildings or parts of buildings, major gutting of buildings or removal of structural elements of a building. The removal of partitions, flooring, windows, etc. incidental to a renovation or remodeling project are not within this category.

Doors and Windows - Installation of doors and windows made of wood, metal or other materials, both interior and exterior. .

Electrical - Installation, renovation, repair and maintenance of electrical wiring, circuits, panel boards, fixtures and equipment within a building, including such incidental or related work as is customarily performed by those in the electricians' trade. Requires Mass Master Electrician's License.

Elevators - The installation, maintenance and repair of elevators, handicapped accessible chair lifts, moving stairs, or dumbwaiters within a building.

Energy Management Systems - The design and installation of systems or maintenance programs to conserve energy use within a building includes performance-contracting energy saving projects including the installation or modification of new and existing equipment which will reduce energy and water consumption associated with heating, ventilation, and air conditioning system, lighting system, building envelope, domestic hot water system, other energy and water using devices and work associated with monitoring and verifying project savings and the study and/or design of the subject work.

Exterior Siding - Installation and/or repair of aluminum, vinyl, or other types of siding materials except masonry used on building exteriors.

Fire Protection Sprinkler Systems - Installation, renovation, repair and maintenance of fire protection sprinklers in buildings including such incidental or related work as is customarily performed by those in the Fire Protection Sprinkler Systems' trade.

Floor Covering - The installation of carpeting, hardwood flooring and all types of tile installed as finished flooring within a building.

General Building Construction - New construction, renovation, rehabilitation, alteration, addition, etc.

Glass and Glazing - Installation and securing of glass in prepared openings in windows, door panels, screens, partitions, etc., that are not part of a correlated window system.

HVAC - Installation, renovation repair and maintenance of the systems and apparatus required, collectively or individually, to provide comfort heating, ventilation and/or cooling within or associated with a building, including such incidental or related work.

Lathing and Plastering - The application of, but not limited to, plaster, Keene cement plaster, furring, metal and gypsum lathing, scratch coat and lathing for ceramic tile walls, and plaster ceiling suspension systems to a building.

Marble - Installation/application of marble, including but not limited to, toilet and shower compartments, counters, cladding, fixed furnishings including fountains, thin skin exterior and interior, granite, and limestone walls and facings, marble and pre-cast terrazzo treads and risers, blue stone and slate walls and floors, and stone window stools and thresholds to a building.

Masonry - Installation, renovation, repair and maintenance of masonry units composed of concrete, stone, or brick which are part of a building, including such incidental or related work.

Mechanical Systems - The installation, renovation, repair and maintenance of power systems, process piping, instrumentation, controls, compressors, generators, turbines and other associated mechanical systems equipment.

Miscellaneous and Ornamental Iron - Installation of miscellaneous and ornamental iron including, but not limited to, steel chairs, handrails and railings, ornamental metal, elevator ladders, ladders, balconies, catwalks, fire escapes, decorative grilles and screens, and any other non-standard metal items requiring custom fabrication and installation to a building.

Painting - Application of paint to interior and exterior surfaces of buildings and preparation of such surfaces for the purpose of receiving a finish coat of paint, including such incidental or related work.

Plumbing - Installation, renovation repair and maintenance of pipes, fixtures and other apparatus in buildings for bringing in and distributing the water supply and removing liquid and water-borne wastes, including such incidental or related work. Requires possession of a Mass Master Plumber's License.

Resilient Floors - Installation of, but not limited to, vinyl tile, asphalt tile, rubber and other resilient tile, resilient sheet flooring, linoleum, resilient vinyl or rubber bases, resilient stair treads and adhesives to a building.

Roofing & Flashing - The installation of various types of roofing materials to a building, including shingles, slate, rubber, PVC and related flashing and drainage systems.

Terrazzo - Installation of terrazzo to a building including sand cushion terrazzo floors, bond to concrete terrazzo floors, thin set terrazzo, conductive terrazzo floors, pre-cast terrazzo, and plastic-matrix terrazzo.

Tile - Installation of tile which includes ceramic floor and wall tile, quarry tile, glass mosaic tile, special shapes, setting materials and accessories to a building.

Telecommunications Systems - Installation, repair and maintenance of telephone, intercom, television, computer network or related equipment for a major communication system within a building.

Waterproofing, Damp-proofing, and Caulking - Installation, renovation, repair or maintenance of materials required to make foundations, walls and other surfaces of a building damp-proof or impervious to water, including such incidental or related work as is customarily performed by those in the waterproofing and damp-proofing trade.

DEFINITIONS OF HORIZONTAL CONSTRUCTION RELATED WORK

SITE WORK – MGL c.30 §39M or MGL c.30B

Hazardous Waste Remediation - The removal, remediation, disposal of hazardous materials, soils, debris, waste etc. (other than asbestos).

Landscaping - A project that includes planting, top soiling, seeding, mowing, grubbing, chemical vegetation control, tree trimming and removal.

Paving/Surfacing - The cold planning, resurfacing and repaving of existing sidewalks, parking lots, roadways as well as all other work necessary to furnish a completed a surface.

Sewer And Water - The removal and/or repair of existing water and sewer lines. The installation of new water and sewer lines.

Septic Systems

Underground Tank Removal And Replacement - The testing, removal, and installation of underground storage tanks and all necessary appurtenances.

Utilities - The furnishing, installing, replacement, relocation, repair etc. of various types of conduit and piping etc. for underground and/or above ground utilities other than sewer and water lines, facility or system for producing, transmitting, or distributing communications, cable television, power electricity, light, heat, gas, oil crude products, steam, storm water not connected with highway drainage, or any other similar commodity including any fire or police signal system, which directly or indirectly serves the public.

EXAMPLES OF CONSTRUCTION MATERIALS

**PAINT
LUMBER
FLOORING
CARPETING
ASPHALT
LOAM
CABINETS
HARDWARE
WINDOWS
GUTTERS
DOWNSPOUTS
PLUMBING SUPPLIES
ELECTRICAL SUPPLIES**

Adopted by the SHA Board of Directors: November 9, 2016

File: dt Salem Procurement Policy November 2016

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

Estimated Contract Amount		Under \$10,000		\$10,000 to \$50,000	Over \$50,000
Procurement Procedure	Sound business practices. ¹	Use a written purchase description to solicit written quotations from no fewer than 3 persons who customarily provide the supply or service. ²	Sealed bids or proposals (M.G.L. c. 30B, §§ 5 or 6).		
Notice/Advertising Requirements	None.	None.	Post a notice 1) in your jurisdiction's office, and, at least two weeks before bids or proposals are due, publish 2) in a newspaper, and 3) on COMMBUYS. If the procurement will exceed \$100,000, at least two weeks before bids or proposals are due, publish in the <i>Goods and Services Bulletin</i> .		
Award contract to:	Responsible person offering the best price.	Responsible person offering the needed quality of supply or service at the lowest price quotation.	Under § 5, the responsible ³ and responsive ⁴ bidder offering the best price. Under § 6, the most advantageous proposal from a responsible and responsive proposer taking into consideration price and non-price proposals.		
Written Contract Required⁵	No. Keep written records as a best practice.	Yes.	Yes.		
Maximum Contract Term⁶	Three years, unless majority vote authorizes longer.				
OSD Option	Yes.				

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

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

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

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

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

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

M.G.L. c. 7C, §§ 44-57 – DESIGN SERVICES FOR PUBLIC BUILDING PROJECTS:

Cities, Towns, Regional School Districts and Horace Mann Charter Schools¹

Estimated Construction Cost (ECC)/Estimated Design Fee (EDF)		ECC \$100,000 or less or EDF less than \$10,000	ECC more than \$100,000 and EDF \$10,000 or more (both ECC and EDF thresholds must be met before the designer selection procedure is required). [*]
Procurement Procedure		None. Recommend soliciting qualifications and prices from at least three designers.	Qualifications-based selection process. Jurisdiction must either (1) set the design fee; or (2) set a not-to-exceed fee limit and then negotiate the fee with the top-ranked designer within the fee limit.
Advertising Required		No.	Advertise in the <i>Central Register</i> and your local newspaper at least two weeks before the deadline for filing applications.
Designer Selection Board¹		No.	No – adopt selection procedure in writing. ^{2,3}
Designer Application		No.	Use “Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction (Updated July 2016)”
Designer Evaluation (Submit to DCAMM and Designer Selection Board)		No.	Yes. See http://www.mass.gov/anf/property-mgmt-and-construction/design-and-construction-of-public-bldgs/designer-selection-process/designer-selection-proc-and-evals-for-municipalities/dsgnr-eval-frms-and-info-for-municips-and-pub-agencies.html
Registration		Yes.	Yes.
Insurance		No.	10% of the total cost of the project or \$1 million, whichever is less. ⁴
Prevailing Wage		No.	No.

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

¹ 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.

² Cities, towns, school districts and Horace Mann charter schools are required to adopt their own procedures for selecting designers for building projects. These procedures must conform to the purposes and intent of the designer selection process as outlined in M.G.L. c. 7C, §§ 44 – 57, and noted herein. See this Office’s *Model Designer Selection Procedures for Municipalities and Other Local Public Agencies*, available at <http://www.mass.gov/ig/publications/guides-advisories-other-publications/model-designer-selection-procedures-municipalities-and-other-local-public-agencies.html>.

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

⁴ M.G.L. c. 7C, § 51.

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

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

¹ M.G.L. c. 149, § 44A(2)(A), as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as “ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.”² M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 218 of the Acts of 2016.³ M.G.L. c. 149, § 44J, as amended by Chapter 218 of the Acts of 2016.⁴ M.G.L. c. 149, § 44J, as amended by Chapter 218 of the Acts of 2016.⁵ The advertising procedures listed pertain only to the request for qualifications. Within 14 days of the completion of the prequalification process, you are required to post a notice in your jurisdiction and on COMMBUYS listing those general contractors and subcontractors that have been prequalified. A copy of the notice must be sent via first class mail, postage pre-paid, to all prequalified general and subcontractors along with an invitation to bid. The invitation to bid must have a deadline of at least two weeks. Although you may only consider bids from those general and subcontractors who have been prequalified, the advertising requirements for building construction contracts over \$150,000 apply.⁶ If you decide to use the optional prequalification process for projects over \$150,000, follow the procedures listed in the “Over \$10,000,000” column.⁷ M.G.L. c. 149, § 29.

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

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

¹ Authorized by M.G.L. c. 30, § 39M(d).² M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."³ M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.⁴ M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.⁵ M.G.L. c. 149, § 44J.⁶ M.G.L. c. 30B, § 5, and M.G.L. c. 9, § 20A.⁷ Although M.G.L. c. 30, § 39M, does not mandate a contractor prequalification process, prequalification of bidders by the Massachusetts Department of Transportation is required for contracts of \$50,000 or more (1) if the awarding authority receives State Aid funds under M.G.L. c. 90, § 34, or (2) the work is on a state road, regardless of whether the awarding authority receives State Aid funds under M.G.L. c. 90, § 34.⁸ M.G.L. c. 149, § 29.⁹ M.G.L. c. 149, § 29.

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

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

¹ Authorized by M.G.L. c. 30, § 39M(d).² M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."³ M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.⁴ M.G.L. c. 149, § 44J.⁵ M.G.L. c. 30B, § 5, and M.G.L. c. 9, § 20A.⁶ M.G.L. c. 149, § 29.⁷ M.G.L. c. 149, § 29.

**BIDDING SUMMARY FOR DISPOSITION OF
SUPPLIES AND SERVICES AND
DISPOSITION OF REAL PROPERTY**

TYPE OF SUPPLY	BIDDING PROCEDURES MGL c.30B §15
<p>DISPOSITION OF SURPLUS SUPPLIES</p> <p>Examples Vehicles, machinery, computer equipment, furniture, and other materials and supplies.</p>	<p style="text-align: center;">\$0 - \$9,999</p> <p style="text-align: center;">MGL c.30B §15 - Use Sound Business Judgment;</p> <p>For a supply w/ an estimated net value of less than \$5,000. You may sell to another LHA or make a charitable contribution;</p> <p style="text-align: center;">\$10,000 or more;</p> <p>For supplies with resale or salvage value of more than \$10,000 you have the following options for disposal and award to the highest offeror:</p> <p style="padding-left: 40px;">Dispose through Sealed Bids; Dispose through Public Auction; Dispose through Established Market (Commodities that are sold in wholesale lots w/prices set by open competition LHA may trade-in a supply listed for trade-in in the invitation for bids or request for proposals.</p> <p>Advertise notice of bid date for sealed bids or auction date in Newspaper once 2 weeks before bid opening & Post notice. If value is greater than \$100K also advertise in Goods & Services Bulletin; Requires a fully executed contract. The LHA may by majority vote dispose of a tangible supply no longer useful to the LHA, but having a resale value or salvage value, at less than the fair market value to a charitable organization.</p>
<p>REAL PROPERTY Acquisitions & Disposition</p>	<p style="text-align: center;">MGL c.30B §16</p>
<p>Property consisting of land, buildings, crops, or other resources still attached to or within the land or improvements or fixtures permanently attached to the land or a structure on it</p>	<p style="text-align: center;">\$35,000 or more</p> <p>Advertise RFP in a newspaper with a circulation.⁷ The advertisement must be published at least once a week for two consecutive weeks before the day you selected for opening proposals. The last publication must occur at least eight days before the proposal opening.</p>