



## 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.

2. **Authorized Delegated Designee.** The CPO may delegate its powers and duties to one or more employees of the SHA. 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. The authorized delegated designee of the SHA shall be responsible for the procurement of supplies, services, design and construction contracts, construction materials and/or equipment estimated to cost less than \$10,000. The delegated designee may also procure the above contracts when estimated to cost more than this dollar threshold at the request of the CPO.

The CPO and its designee must achieve certification in public procurement. This certification is obtained through the Commonwealth of Massachusetts Office of the Inspector General. The CPO and its designee will conduct procurement-training sessions and will provide relevant purchasing and procurement information to all staff members involved in procurement.

## **II GENERAL RULES**

- (1) The CPO shall submit all quotes, bids or proposals over \$10,000 and up at the next regular meeting of the Board of Directors, and the Board must vote to authorize the award of the contract.
- (2) The CPO may not solicit or award a contract for a term greater than three years, including renewals, extensions, or options unless approved by a majority vote of the Board of Directors before the procurement is made.
- (3) A written contract is required for supply and service procurements of \$10,000 or more. Purchases under \$10,000.00 may be made with a purchase order.
- (4) 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 its designee shall so certify.
- (5) Applicable rules established by the Massachusetts Department of Housing & Community Development and the United States Department of Housing & Urban Development, and their respective Inspector Generals shall be adhered to.

## **III PROCURING SUPPLIES AND SERVICES – MGL c.30B**

SHA shall procure every contract for the purchase of supplies, services or real property transactions in conformance with the requirements of MGL c.30B, the Uniform Procurement Act, as recently amended by Chapter 218 of the Acts of 2016. All procurements must be based on a written purchase description, prior to soliciting quotes. The purchase description must describe the supplies or services to be procured in sufficient detail to ensure that the received quotes, bids or proposals can be evaluated in a fair and equitable manner. A purchase description typically includes a detailed description of the supply or service, estimated quantities, a schedule for performance, and delivery terms. The description must be sufficiently detailed to ensure successful procurements; however, the description must not be defined to unnecessarily restrict competition. The written purchase description will be sent to each vendor and must include in the documentation supporting the procurement.

The CPO or its designee shall keep on file a consolidated supply/bid list for all bids received for future relevant solicitations.

- (1) The CPO or its designee shall make procurements as necessary not to exceed \$10,000 in the open market through the exercise of sound business practices to ensure that the price obtained is from the lowest responsible vendor.
- (2) For the procurement of supplies and services estimated to cost between \$10,000 and \$50,000 the CPO or its designee shall solicit written price quotations from no fewer than three vendors using a prepared written description for the particular procurement. The CPO shall award the contract to the responsible bidder offering the needed quality of supply or service at the lowest quotation.
- (3) All procurements in excess of \$10,000 require a written and fully executed contract.

The CPO must keep on file a record of all price quotations sought including names, addresses, and the dates and amounts of the quotations. All documents relating to purchases and contracts under this section must be kept for a period of six (6) years from the date of final payment.

For procurements estimated to cost over \$50,000 the CPO must use the sealed Invitation to Bid (IFB) process in accordance with MGL c.30B §5 or solicit requests for proposals (RFP) in accordance with the requirements of MGL c.30B, §6 as described below.

- (5) **Invitation to Bid (IFB).** The requirements of MGL c.30B, §5 require advertising for sealed bids once, two (2) weeks before the date specified for the opening of bids or proposals as follows:

- Advertise in a newspaper of general circulation in the locality of the authority;
- Advertise on COMMBUYS and;
- Post a copy of the bid notice in a conspicuous place at the SHA Offices;
- Procurements of \$100,000 or more shall also be advertised in the Goods and Services Bulletin published by the Secretary of State;
- IFBs may be mailed to available vendors;
- A contract bid under this process shall be awarded to the lowest responsible and responsive bidder;
- If the purchase is made from any vendor other than one offering the lowest price, justification for such a bid rejection shall be in writing and kept with bid documents.

- (6) **Requests for Proposals (RFP).** For procurements estimated to cost \$50,000 or more utilizing the RFP process in MGL c. 30B §6 as opposed to the IFB process identified in (4) above, MGL c.30B, §6 includes the following provisions:

The CPO shall not solicit competitive sealed proposals under MGL c.30B, §6 unless it has determined in writing that selection of the most advantageous offer requires comparative judgments of factors in addition to price, specifying the reasons for the determination. A written analysis of the reasons to support the use of this process will be used in the written determination;

- Criteria must be developed for each task;
- Evaluation Committee must be appointed;
- Allows contract award to bidder who has highest rating, not necessarily the lowest price;
- Separate sealed price and non-price proposals must be submitted.

- (7) **Statewide Contract List.** For supplies and services included on the statewide contract list awarded by the State's Operational Services Division (OSD), the CPO or its designee may purchase from a statewide contract vendor by soliciting quotes without any further solicitation or invitation to bid regardless of the dollar amount unless otherwise stipulated by OSD.

Contracts may not be entered into for a term greater than three years, including renewals, extensions, or options, unless approved by a majority vote of the Board of Directors before the procurement is made. The CPO must keep on file with regard to every solicitation made all documents relating to any procurement under MGL c.30B, and these shall be kept for a period of six (6) years from date of final payment. This includes a copy of the IFB, RFP, all attachments, all quotes, bids or proposals received record of the names and addresses of all bidders, and the amounts of all bids.

- (8) **Goods and Services exempt from MGL c.30B.** In accordance with MGL c.30B §1(b), the procurement of certain goods and services is exempt from the requirements of MGL c.30B. SHA shall use sound business practices to procure any contracts that are exempt from the requirements of MGL c.30B. See Attached.
- (9) **Sole Source Procurements Under MGL c.30B.** A sole-source procurement may be made without advertising or competition only within the limits defined and set forth by MGL c.30, §7 and 24 CFR 85.36(d)(4), as recently amended.

- **Contracts under \$50,000.** The CPO may award a contract in an amount of less than \$50,000 without competition when, after reasonable investigation, it determines in writing that only one practicable source for the required supply or service exists. A sole-source procurement of more than \$50,000 is prohibited except for the following:
- **Contracts for Utilities, Certain Books and Educational Materials.** The CPO may award a contract for the procurement of library books, school textbooks, educational programs, educational courses, educational curricula in any media including educational software, newspapers, serials, periodicals, audiovisual materials or software maintenance without competition when, after reasonable investigation, the CPO has determined in writing that only one practicable source for the required supply or service exists. The CPO may procure without competition water, gas, electricity, sewer or telephone services from a regulated industry company as defined in MGL c.25, §3 after the CPO certifies in writing that only one practicable source exists.

The CPO shall record all sole source procurements, specifying each contractor's name, the amount and type of contract, a listing of supplies or services procured under each contract and the basis for determining that the contractor was the only practicable source for the required supply or service. [MGL c.30B §7(b)]

The receipt of only one bid or offer is not, under Chapter 30B, a sole-source procurement. If other vendors could have responded but elected not to, the procurement may proceed. In the event that only one bid or offer is received, SHA may at its discretion:

- **Re-examine Purchase Description.** The CPO may elect to re-examine the purchase description to determine if specifications were unduly restrictive.
  - **Investigation of "would-be providers".** The CPO may also investigate would-be providers to determine their reason for not submitting a bid or offer. A change in specifications or simply trying again later may foster more competition and result in a better price. If it is in the best interests of SHA, the bid or proposal may be rejected and the process repeated.
- (10) **Petty Cash.** Procurements in any amount up to \$100 may be made through a petty cash fund established for this purpose. When supported by the appropriate supporting documentation,



invoices may be paid by check without an accompanying Purchase Order. The Fiscal Department shall be responsible for maintaining the petty cash fund and for developing procedures and requirements for its use.

- (11) **Prohibited Federal Contract Types.** Any type of contract which is appropriate to the procurement and which will promote the best interests of the SHA may be used, provided the cost -plus-a-percentage-of-cost and percentage-of-construction-cost methods are not used. All solicitations and contracts shall include the clauses and provisions necessary to define the rights and responsibilities of both the contractor and SHA. For all cost reimbursement contracts, SHA must include a written determination as to why no other contract type is suitable. Further, the contract must include a ceiling price that the contractor exceeds at its own risk. .
- (12) **Contract Funding.** All procurements of equipment, materials, and non-personnel services shall be documented. Expenditures shall be supported by receipts and shall be made by standard purchase order. The CPO or its designee shall approve each purchase, regardless of dollar amount. On a monthly basis, in advance, the Financial Administrator shall provide 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.
- (13) **HUD Procurement Thresholds.** HUD has recently updated its procurement thresholds as part of the codification of 2 CFR §§200.317- 200.326. The procurement thresholds have increased for Micro-Purchases (0-\$3,000)<sup>1</sup> , Small Purchases (\$3,001 to \$150,000), Sealed Bids and Competitive Proposals (\$150,000 and higher),

#### IV PROCURING CONSTRUCTION CONTRACTS

The following requirements and procedures are applicable when procuring building related construction contracts subject to MGL c.149 §§44A-J. (Vertical Construction)

- (1) For building related construction contracts which include labor & materials estimated to cost less than \$10,000, the CPO or its authorized designee shall follow MGL c. 149 §44A(2)(A) and may use sound business practices using a written scope of work. Utilizing a vendor on a statewide contract procured through OSD or a blanket contract procured by the SHA meets the definition of sound business judgment.
- (2) For building related construction contracts which include labor and materials estimated to cost between \$10,000 to \$50,000, the CPO must follow MGL c.149 44A(2)(B) procedures by making public notification and seek written quotes based on a scope of work from no fewer than 3 persons or firms who customarily perform such work and award to the lowest eligible and responsible bidder as defined by MGL c.149 §44A. Public notification will be two weeks prior to when responses are due as follows:
- Advertise in the Central Register;
  - Advertise on COMMBUYS;
  - Post on SHA's website & post the bid notice in a conspicuous place at the SHA;
  - Seek to obtain quotes from 3 qualified contractors once advertisement is published;

Public notification is not required if written quotes are obtained from a minimum of 2 vendors from a list established through a blanket or statewide contract procured through OSD.

<sup>1</sup> Davis Bacon Wage Rates are applicable at \$2,000;  
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- (3) For building related construction contracts estimated to cost between \$50,000 to \$150,000 the CPO or its designee shall follow the sealed bidding procedure of MGL c.30 §39M, as set forth in MGL c.149, §44A(2)(c) and award to the lowest eligible and responsible bidder as defined by MGL c.149 §44A. This is done by advertising at least once, not less than two (2) weeks before the date specified for the opening of bids as follows:
- Advertise in the Central Register;
  - Advertise in a newspaper of general circulation in the locality of the project;
  - Advertise on COMMBUYS; and
  - Post bid notice in a conspicuous place at SHA; (*one week before bids are due*)
- (4) Building related construction projects estimated to cost over \$150,000 to \$10,000,000 the CPO or its authorized designee shall follow the sealed bidding procedures of MGL c.149 §§44A-J and award to the lowest eligible and responsible bidder as defined by MGL c.149 §44A.
- Advertise in the Central Register
  - Advertise in a newspaper of general circulation in the locality of the project;
  - Advertise on COMMBUYS; and
  - Post bid notice in a conspicuous place at SHA;
- (5) Massachusetts Prevailing Wage Rates are applicable on all state funded contracts in accordance with MGL c.149 §26-27A regardless of procurement dollar amount.
- (6) Federal Davis Bacon Wages are applicable on all federally funded contracts in the amount of \$2,000 or more;
- (7) Construction contracts in the amount of \$10,000 or more require 10 OSHA training certification.
- (8) Construction contracts in the amount of \$25,000<sup>2</sup> or more shall require a payment bond and a performance bond in an amount not less than 100% of the contract price, in accordance with MGL c.149 §29. This is a minimum requirement.
- (9) Construction contracts estimated to cost \$150,000 or more require prime contractors to be DCAMM Certified.<sup>3</sup>
- (10) Filed Sub Bids are required and must be DCAMM Certified in the specific sub-bid category work if the following three conditions are met:
- the estimated construction cost of the M.G.L. c. 149 contract exceeds \$150,000;
  - the subcontractor's work falls under a filed sub-bid category of work identified in MGL c.149 §44F; and
  - the estimated cost of the subcontract is greater than \$25,000.
- (11) Construction contracts estimated to cost \$150,000 or more require performance and payment bonds in the amount of 100% of the contract amount. These requirements cannot be waived and letters of credit, checks, or bankbooks cannot be accepted in lieu of a payment bond or a performance bond.
- (12) DHCD requires using the appropriate DHCD Front-End bidding documents.

<sup>2</sup> DHCD requires performance and payment bonds in 100% of the contract value on projects estimated to cost \$25,000 or more.

<sup>3</sup> DHCD requires DCAMM Certification on projects \$100,000 or more.

- (13) For construction contracts estimated to cost **\$10,000,000** or more, the CPO or its 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.
- (14) **Owner's Project Manager.** MGL c 149, §44A½, requires public awarding authorities to engage the services on an owner's project manager on all building projects estimated to cost \$1.5 million or more. The SHA shall, prior to contracting for design services where the project is estimated to cost \$1.5 million or more, procure the services of project manager. At the Executive Director's discretion, a qualified SHA employee may be selected and serve as the owner's project manager, providing he or she meets the required minimum qualifications under the MGL c.149.
- (15) Submission of standard contractor evaluation forms. In accordance with 810 CMR 8.02: Submission of Standard Contractor Evaluation Forms by Awarding Authorities, the SHA shall submit to DCAMM a properly completed standard contractor evaluation form within 70 calendar days of use and/or occupancy, or upon issuance of a certificate of use and/or occupancy, or termination of a project, whichever is earlier, on all projects bid under MGL c149A and 149 §44A-J

The CPO or designated staff must keep on file with regard to every solicitation made a copy of bid forms received, a record of names, addresses, and the amounts of bids (tabulation). All documents relating to purchases and contracts under this section shall be kept for a period of six (6) years from date of final payment.

## **V PUBLIC WORKS CONSTRUCTION; CONSTRUCTION MATERIALS (*With Labor*)**

For public works construction projects, i.e., site work (horizontal construction) labor and materials or for the purchase of construction materials (without labor), the CPO or its designee shall follow the bidding procedures under MGL c.30 §39M or MGL c.30B §5 and award to the lowest eligible and responsible bidder as follows:

- (1) For construction contracts estimated to cost less than \$10,000 the CPO or its designee may use MGL c.30 §39M by using sound business judgment as defined in MGL c.30B §2 using a written scope of work. Utilizing a vendor on a statewide contract procured through OSD or a blanket contract procured by the SHA meets the definition of sound business judgment.
- (2) For construction contracts estimated to cost between \$10,000 to \$50,000 the CPO or its designee may use MGL c.30 §39M for public notification and to seek written quotes from no fewer than 3 persons who customarily perform such work by using a prepared written scope of work. Public notification will be done two weeks prior to when responses are due as follows:
  - Advertise in the Central Register
  - Advertise on COMMBUYS;
  - Post bid notice in a conspicuous place at SHA and on SHA website;Public notification is not required if written quotes are obtained from a minimum of 2 vendors from a list established through a blanket or statewide contract procured by OSD.
- (3) For construction contracts estimated to cost over \$50,000 the CPO or its designee may use MGL c.30 § 39M by advertising for sealed bids at least once, not less than two (2) weeks before the date specified for the opening of bids using a prepared written scope of work as follows:

- Advertise in the Central Register;
- Advertise in a newspaper of general circulation in the locality of the project;
- Advertise on COMMBUYS; and
- Post bid notice in a conspicuous place at SHA; *(one week before bids are due)* Public notification is not required if written quotes are obtained from a minimum of 2 vendors from a list established through a statewide contract procured by OSD. *(May not use "blanket contract option")*

- (4) Massachusetts Prevailing Wage Rates are applicable on contracts funded by the state in accordance with MGL c.149 §26-27A regardless of procurement dollar amount.
- (5) Federal Davis Bacon Wages are applicable on all federally funded contracts in the amount of \$2,000 or more;
- (6) Any construction contracts in the amount of \$10,000 or more require a 10-hour OSHA training certification. A construction contracts in the amount of \$25,000<sup>4</sup> or more shall require a payment bond and a performance bond in an amount not less than 100% of the contract price. A bid deposit in the amount of 5% of the bid is required in the form of a bid bond, a treasurers or certified check or cash for construction contracts over \$50,000;<sup>5</sup>
- (8) Construction contracts in the amount of \$25,000 or more shall require a minimum payment bond in an amount not less than 50% of the contract price in accordance with MGL c.149 §29. DHCD funded contracts require a performance & payment bond in 100% of the contract amount.
- (9) The SHA may be part of a local city or town governmental procurement, e.g., site work if upon request by the SHA the contracting governmental agency includes the SHA in its initial advertisement for bids by describing the work and location of work to be performed for the SHA.

## **VI PURCHASE OF CONSTRUCTION MATERIALS (NO LABOR)**

- (1) For the purchase of construction materials only (no labor) estimated to cost under \$10,000 the CPO or its designee may use MGL c.30 §39M using sound business judgment.
- (2) For the purchase of construction materials only (no labor) estimated to cost between \$10,000 to \$50,000 the CPO or its designee may use MGL c.30 §39M to solicit written responses from no fewer than 3 persons who customarily perform such work using a prepared written scope of work and solicit two weeks prior to:
  - Advertise in the Central Register
  - Advertise on COMMBUYS; and
  - Post bid notice in a conspicuous place at SHA; and
  - Post on SHA website;

Public notification is not required if written quotes are obtained from a minimum of 2 vendors from a list established through a blanket or statewide contract procured through OSD.

<sup>4</sup> DHCD requires performance and payment bonds in 100% of the contract value on projects estimated to cost \$25,000 or more.

<sup>5</sup> MGL c.30 §5 does not require a bid deposit. All other requirements are applicable.



- (3) For the purchase of construction materials only (no labor) estimated to cost \$50,000 or more the CPO or its designee may use MGL c.30 §39M by advertising for sealed bids using a prepared written material description as follows:
- Advertise in the Central Register;
  - Advertise in a newspaper of general circulation in the locality of the project;
  - Advertise on COMMBUYS; and
  - Post bid notice in a conspicuous place at SHA; (*one week before bids are due*)
- (4) Contracts in the amount of \$25,000 or more shall require a payment bond and a performance bond in an amount not less than 100% of the contract price in accordance with MGL c.149 §29.<sup>6</sup>
- (5) Prevailing wage rates and 10-hour OSHA requirements are not applicable when labor is not involved.
- (6) Public notification is not required if written quotes are obtained from a minimum of 2 vendors from a list established through a statewide contract procured through OSD. (*May not use "blanket contract option"*)

SHA has option to use MGL c.30B §5 procurement requirements in any amount for the purchase of construction materials (***NO LABOR***).

The CPO or designated staff must keep on file with regard to every solicitation made a copy of invitations made and offers received, and a record of names and addresses of bidders, and the amounts of bids. All documents relating to purchases and contracts under this section shall be kept for a period of six (6) years from date of final payment.

## **VII ARCHITECT/ENGINEER SERVICES**

### **(1) Engineering Services (Non-building Projects)**

(a) The procurement of engineering services that are not related to public building construction projects are not subject to the requirements of MGL c.30B. SHA shall procure engineering services for non-building projects by utilizing sound business practices which may include the solicitation of quotes, sealed bids or competitive sealed proposals which include both price and non-price submittals.

### **(2) Design Services (Building Projects)**

(a) **DHCD Funded Projects**. Designer services for projects involving any building construction, reconstruction, alteration, remodeling, or repair are subject to the Designer Selection Law (DSL – MGL c.7 §§44-57) when the estimated construction cost (ECC) is <sup>7</sup>**\$100,000** or more **and** the estimated design fee (EDF) is **\$10,000** or more. (Both the EEC and EDF thresholds must be met before the designer selection procedure is required).

<sup>6</sup> DHCD funded contracts require a payment bond in 100% of the contract amount.

<sup>7</sup> Chapter 113 of the Acts of 2018 raise the threshold amounts for designer selection contract awards for design services with both an estimated design fee of \$30,000 or more and an estimated construction cost of \$300,000 or more (formerly, \$10,000 and \$100,000 respectively).

(b) The SHA must follow procedures established by DHCD for design services on state-funded housing projects. DHCD typically uses Work Orders to procure "House Doctors" for projects with EEC between \$50,000 and \$500,000 & advertises for Request for Services (RFS) to procure design services on project over \$500,000. A public notice for contracts for designer services is to be published in the Central Register and in a local newspaper. SHA shall include the EEC of the project in the public notice only if one is available.

**(3) Design Services for Federally Funded Projects. (Fee between \$3,001-\$150,000).**

For federally funded projects under the small purchase threshold, SHA may either use a fixed price contract based on an independent cost estimate (ICE) or a proven cost price analysis (CPA) or to negotiate the fee. The SHA adopts the use of either procedure depending on the complexity of the contract and if the method is advantageous to the SHA in order to move projects forward in an expedient, efficient and cost effective manner within the parameters of 24 CFR 85.36, as amended.

(a) **Fixed Priced Contract.** The RFS shall have established uniform requirements of information to be submitted by all proposers with a set fee based on cost and price analysis; develop a uniform procedure for the evaluation of all proposals to a group of not fewer than three finalists; and give each finalist equal opportunity to provide additional information to, or appear before, the selection body. Contract award is based on evaluation criteria set forth in the RFS that will determine the most advantageous firm or individual.

(d) **Negotiate Fee.** If the fee is to be negotiated, SHA shall request the submission of a fee proposal from the top-ranked finalist and follow the procedure for the negotiation of the fee by establishing uniform requirements of information to be submitted by all proposers; develop a uniform procedure for the evaluation of all proposals to a group of not fewer than three finalists

and give each finalist equal opportunity to provide additional information to, or appear before, the selection body. SHA shall also establish a procedure for the submission of a fee proposal and the negotiation of fees between SHA and the selected designer with whom the fee is being negotiated.

## **VIII EMERGENCY PROCUREMENTS**

When the time required complying with the policy and procedures outlined herein would endanger the health or safety of persons or property, the CPO or its designee may initiate a procurement without following the policies and procedures in full. An emergency procurement shall be limited to the essential supplies or services necessary to meet the emergency, and shall conform to established procurement policy to the fullest extent practicable. A true emergency occurs when the emergency condition could not have been foreseen in advance or in sufficient time to avoid the resulting damage to health, safety or property. Conditions that occur as a result of deferred maintenance or poor planning are not emergencies and may not be addressed by emergency procurements.

In addition, HUD approval shall be obtained prior to the award of an emergency procurement exceeding \$100,000 that is funded in whole or in part from Federal sources.

(1) **Supplies and services.** May be procured on an emergency basis in accordance with the requirements of MGL c.30B, §8.

(2) **Building Construction.** Building construction estimate to cost more than \$10,000 may be procured on an emergency basis in accordance with the requirements of MGL c.149, §44A(4),

which requires SHA to obtain DCAMM approval prior to awarding the contract. Where the nature of the emergency prevents SHA from obtaining the prior approval of DCAMM, SHA may contract for the necessary work without said prior approval; provided, however, that the approval of DCAMM shall still be sought at the earliest possible time; and provided, further, that if DCAMM at that time fails to approve the emergency determination, SHA shall promptly cease all work for which the emergency determination was denied. Prevailing wage rates or Davis Bacon Wages are applicable as well as OSHA certification and bonding requirements.

- (3) Procuring Public Works Construction and Construction Materials.** In cases of extreme emergency caused by enemy attack, sabotage or other such hostile actions or resulting from an imminent security threat, explosion, fire, flood, earthquake, hurricane, tornado or other such catastrophe, without competitive bids and notwithstanding any general or specific law, award contracts otherwise subject to MGL c.30, §39M to perform work and to purchase or rent materials and equipment, all as may be necessary for temporary repair and restoration to service of any and all public work in order to preserve the health and safety of persons or property; provided, that this exception shall not apply to any permanent reconstruction, alteration, remodeling or repair of any public work. Prevailing wage rates or Davis Bacon Wages are applicable as well as OSHA certification and bonding requirements.

## **IX AFFIRMATIVE ACTION**

The SHA shall make positive efforts to use small, minority and woman-owned businesses as sources for supplies and services in its procurement and contracting activities. Such efforts shall include developing, utilizing mailing lists for these sources, soliciting, and encouraging such businesses to compete for contracts. The SHA encourages the participation of minority and women workers, and the participation of Minority and Women owned firms, in its publicly bid construction contracts under the SHA's Minority and Women Participation Provision ("MWPP") to the fullest extent allowable under the MGL Chapter 149 construction bid statute.

The SHA shall enforce compliance with Section 3 of the Housing and Urban Development Act of 1968 as amended by the Housing and Community Development Act of 1992 and 24 CFR part 135 ("Section 3") by requiring contractors to provide employment, training and other economic contracting opportunities to SHA residents and SHA resident owned businesses as a condition of an award of any federally-funded contract. SHA's Resident Employment Provision incorporates the requirements of Section 3 and applies to all SHA administered federally funded contracts and purchase orders.

## **X HUD COST / PRICE ANALYSIS (FEDERAL PROJECTS)**

A cost or price analysis shall be performed for all federal procurement actions on small and large contracts, including contract modifications. The method and degree of analysis shall depend on the facts surrounding each procurement. In order to perform a cost/price analysis, an independent cost/price estimate must be performed before bids or proposals are solicited.

- (1) Independent Cost/Price Estimate.** The procurement method to be used, and the procurement statute that applies, will depend on the expected dollar value of the procurement. Furthermore, in order to determine that bid or quoted prices received are reasonable, a benchmark is needed for comparison purposes. Thus, an independent cost/price estimate should be performed prior to procuring goods or services. For small purchases, the independent estimate can take the form of reviewing recently paid prices for the same good or service, or review of price lists or catalogs from multiple sources. Larger contracts may require a written analysis of labor, material, and overhead costs to perform the work.

(2) **Submission of Cost or Pricing Information.** If the procurement is based on noncompetitive proposals, or when only one offer is received, or for other procurements as deemed necessary by the SHA (e.g., when contracting for professional, consulting, or architect/engineer services) the offeror shall be required to submit:

- cost breakdown of projected costs and profit;
- commercial pricing and sales information, sufficient to enable the SHA to verify the reasonableness of the proposed price as a catalog or market price of a commercial product sold in substantial quantities to the general public, or
- documentation showing that the offered price is set by law or regulation.

(3) **Cost Analysis.** Cost analysis shall be performed if an offeror/contractor is required to submit a cost breakdown as part of its proposal. When a cost breakdown is submitted, a cost analysis shall be performed of the individual cost elements. The SHA shall have a right to audit the contractor's books and records pertinent to such costs and profit shall be analyzed separately. Costs shall be allowable only to the extent that they are consistent with applicable Federal cost principles (for commercial firms, Sub part 31.2 of the Federal Acquisition Regulation, 48 CFR Chapter 1). In establishing profit, the SHA shall consider factors such as the complexity and risk of the work involved the contractor's investment and productivity, the amount of subcontracting, the quality of past performance, and industry profit rates in the area for similar work.

(4) **Price Analysis.** A comparison of prices shall be used in all cases other than those described in Section VI above. Prices received are compared to the independent price estimate.

## **XI CONTRACTOR QUALIFICATIONS / REQUIREMENTS**

Procurements shall be conducted only with responsible contractors, i.e., those who have the technical and financial competence to perform and who have a satisfactory record of integrity. The SHA shall review each proposed contractor's ability to perform the contract successfully, considering factors such as the contractor's integrity (including a review of the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (Excluded Parties List), Contractors Debarred or Suspended by DCAMM, and Mass. Office of the Attorney General Fair Labor and Business Practices Division Debarment List, compliance with public policy, record of past performance (including SHA internal references and contacting previous clients of the contractor, such as other Public Housing Authorities), and financial and technical resources. Contracts shall not be awarded to debarred, suspended, or ineligible contractors or contractors deemed by SHA to be not responsible or competent to perform the contract.

## **XII PUBLIC RECORDS REQUESTS**

In accordance with applicable state and federal laws, the SHA is required to allow contractors, agencies and private citizens' access to public records upon written request. With certain exceptions, the contents of SHA's procurement files are public records subject to disclosure. All requests for public records from contractors, agencies or private citizens must be recorded and forwarded to the SHA's General Counsel for processing at the earliest opportunity. SHA personnel are directed not to release public records without the prior approval of either the CPO or SHA's General Counsel.

## **XIII DEMANDS FOR DIRECT PAYMENT**

In certain cases, construction subcontractors may seek direct payment from the SHA rather than the

general contractor. Upon receipt of such demands, SHA personnel are directed to affix the date of receipt and immediately forward the demand and all related correspondence regarding the payment demand to the SHA's General Counsel, unless the CPO directs SHA personnel to handle the matter.

#### **XIV BID PROTESTS/DISPUTES**

The SHA has an affirmative obligation to respond to bid protests or complaints regarding SHA's procurement program in a timely fashion. In addition, SHA shall zealously enforce the terms of its procurement contracts and purchase orders. Any and all bid disputes or disputes regarding payment, performance or the terms of any procurement are to be recorded in writing, date stamped and immediately forwarded to SHA's General Counsel, unless the CPO SHA personnel to handle the matter.

#### **XV ETHICS IN PUBLIC PROCUREMENT**

SHA's Code of Conduct shall apply to all SHA employees. The Code of Conduct is attached hereto and made part of the SHA Procurement Policy.

#### **XVI CONTRACT ADMINISTRATION**

The CPO and its designee shall be responsible for contract administration following the award of a contract. The CPO shall be designated contract manager. The CPO designee shall be the contracting officer representative. The CPO and its designee shall maintain a contract file for each contract awarded. The contract file shall consist of the following records: The executed contract.

- The required insurance certificates, payment bonds, and performance bonds.
- All written communications with contractor.
- Progress and inspection reports. Reports/logs of citizen or user department compliments or complaints.
- Reports of follow up actions in response to deficiencies or complaints.
- Requests for contract amendments.
- Approved and signed contract amendments.
- Payroll report forms for contracts that require State Prevailing Wage/Davis Bacon Wage Rates.
- Requests for payment.
- Payment approvals.
- Closeout documentation.
- Final audit and/or closeout documents.

For cost reimbursement contracts, the following additional documents shall be included:

- Receipts or other documentation of reimbursable expenses.
- Signed time sheets supporting billings for labor

#### **XVII RECORD RETENTION**

The CPO and its designee shall keep all procurement records by contract in a locked file cabinet. All relevant documentation shall be retained on file for a period of not less than six years from the date of final payment, or three years from the date of program grant closure, whichever is greater. Once time limit for retention expires, all information will be shredded and recorded in the shred log.

## **XVIII SAMPLE FORMS/CONTRACTS - APPENDIX**

- **APPENDIX A: STATE & FEDERAL PROCUREMENT MATRIX and HUD PROCURMENT CHARTS**

Updated charts with changes that are effective November 7, 2016, pursuant to the passage of Chapter 218 of the Acts of 2016, An Act Modernizing Municipal Finance and Government;

The charts include:

- **M.G.L. c. 149 – BUILDING CONSTRUCTION CONTRACTS**
- **M.G.L. c. 30, § 39M, or M.G.L. c. 30B – PUBLIC WORKS (NON-BUILDING) CONSTRUCTION CONTRACTS (WITH LABOR)**
- **M.G.L. c. 30, § 39M, or M.G.L. c. 30B – CONSTRUCTION MATERIALS PROCUREMENTS (WITHOUT LABOR)**
- **M.G.L. c. 7C, §§ 44-57 – DESIGN SERVICES FOR PUBLIC BUILDING PROJECTS:**
- **M.G.L. c. 30B – PROCUREMENT OF SUPPLIES AND SERVICES**
- **APPENDIX B – General Provisions**
- **APPENDIX C - Sample Contract – Construction (State & Federal)**
- **APPENDIX D - Sample Contract for Supplies and Services**
- **APPENDIX E – Frequently used Federal Non-Construction Contracts Supplemental Conditions Table 5.1**
- **APPENDIX F – List of Frequently used HUD Forms**
- **APPENDIX G – Chapter 30B Exemptions**
- **APPENDIX H – Definitions of Building Related Construction Work**
- **APPENDIX I – Definitions of Horizontal Construction Related Work– MGL c.30 §39M or MGL c.30B**

Adopted by the SHA Board on November 28, 2018





## M.G.L. c.30 §39M – NON-BUILDING CONSTRUCTION CONTRACTS WITH LABOR

| Estimated Contract Amount                | Under \$10,000  |   | \$10,000 to \$50,000  |                   | Over \$50,000     |                   |
|--|---|---|---|-------------------|-------------------|-------------------|
|  | M.G.L. c. 30 §39M   | M.G.L. c. 30 §39M   | M.G.L. c. 30 §39M   | M.G.L. c. 30 §39M | M.G.L. c. 30 §39M | M.G.L. c. 30 §39M |
| <b>Procurement Procedure</b>             | Sound business practices (as defined in M.G.L. c. 30B, §2). | Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work.<br><b>Solicitation is in addition to the advertising requirements below.</b> | Sealed bids.  |                   |                   |                   |
| <b>Notice/Advertisement Requirements</b> | None.   | Post a notice at least two weeks before responses are due on:<br>1) your jurisdiction's website;<br>2) COMMBUYS;<br>3) in the <i>Central Register</i> ; and<br>4) in a conspicuous place near your office.      | Post a notice:<br>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:<br>2) in the <i>Central Register</i> ;<br>3) in a newspaper; and 4) on COMMBUYS. |                   |                   |                   |
| <b>OSHA Training</b>                     | No.   | Yes.  | Yes.  |                   |                   |                   |
| <b>Prequalification</b>                  | No.   | No.   | Maybe.  |                   |                   |                   |
| <b>Bid Deposit</b>                       | No.   | No.   | 5% of the value of the total bid.   |                   |                   |                   |
| <b>Payment Bond</b>                      | No.   | 100% payment bond if contract is >\$25,000.<br><b>This is a DHCD requirement.</b>   | 100% payment bond.<br><b>This is a DHCD requirement.</b>  |                   |                   |                   |
| <b>Performance Bond</b>                  | No.   | 100% performance bond if contract is > \$25,000.<br><b>This is a DHCD requirement.</b>  | 100% performance bond.<br><b>This is a DHCD requirement.</b>  |                   |                   |                   |
| <b>Prevailing Wage</b>                   | Yes.  | Yes.  | Yes.  |                   |                   |                   |
| <b>OSD or Blanket Contract Option</b>    | Yes.  | Yes.  | No.   |                   |                   |                   |





**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.30 §39M  | M.G.L. c.30B §5 Option  |  |            |
| Procurement Procedure              | Sound business practices (as defined in M.G.L. c. 30B, § 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:<br>1) your jurisdiction's website;<br>2)COMMBUYS;<br>3) in the <i>Central Register</i> ; and<br>4) in a conspicuous place near your office. | Post a notice:<br>1) in your jurisdiction's office for at least one week before bids are due; and,<br>at least two weeks before bids are due, publish:<br>2) in the <i>Central Register</i> ;<br>3) in a newspaper; and<br>4) on COMMBUYS. | Post a notice at least two weeks before bids are due:<br>1) in your jurisdiction's office; and publish:<br>2) in a newspaper;<br>3) on COMMBUYS; and<br>4) in the <i>Central Register</i> . |   |  |            |
| OSHA Training                      | No.  | No.   | No.  | No.   | No.   |  |            |
| Prequalification                   | No.  | No.   | No.  | No.   | No.   |  |            |
| Bid Deposit                        | No.  | No.   | No.  | No.   | No.   |  |            |
| Payment Bond                       | No.  | 100% payment bond if contract is >\$25,000. This is a DHCD requirement.   | 100% payment bond. This is a DHCD requirement.   | 5% of the value of the total bid.   | 100% payment bond if contract is >\$25,000. This is a DHCD requirement. |  |            |
| Performance Bond                   | No.  | No.   | No.  | No.   | No.   |  |            |
| Prevailing Wage                    | No.  | No.   | No.  | No.   | No.   |  |            |
| OSD Option                         | Yes.   | Yes.  | Yes.   | Yes.  | No.   |  |            |
| Blanket Contract Option            | Yes.   | Yes.  | Yes.   | No.   | No.   |  |            |

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

| 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). *  |
|---|---|--|
| <b>Procurement Procedure</b>  | 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.  |
| <b>Advertising Required</b>   | No.   | Advertise in the Central Register and your local newspaper at least two weeks before the deadline for filing applications.   |
| <b>Designer Selection Board</b>   | No.   | DHCD typically uses Work Orders to procure House Doctors for projects with ECC between \$50k-\$500k & Advertises a Request for Services (RFS) to procure services on projects over \$500k.   |
| <b>Designer Application</b>   | No.   | Use "Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction (Updated July 2016)"  |
| <b>Designer Evaluation (Submit to DCAMM and Designer Selection Board)</b> | No.   | Yes. See <a href="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">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</a> |
| <b>Registration</b>   | Yes.  | Yes.   |
| <b>Insurance</b>  | No.   | 10% of the total cost of the project or \$1 million, whichever is less.  |
| <b>Prevailing Wage</b>  | No.   | No.  |

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

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

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**HUD – Methods of Procurement – Comparison Chart As of 03/29/2017**  
**IN ACCORDANCE WITH 2 CFR PART 200.318-326**

|  | Small Purchases                                  |  | Sealed Bids   | Competitive Proposals   |
|--|--|--|---|---|
|  | <b>Micro Purchases<br/>Up to \$3,000</b>         | <b>\$3,001 to \$150,000</b>  | <b>\$151,000 and higher</b>   | <b>\$150,000 and higher</b>   |
| <b>Obtain Bids</b>   | Solicit ONE quote In Writing or Verbally         | Solicit REASONABLE Number of quotes in Writing or Verbally   | <ul style="list-style-type: none"> <li>• Specification</li> <li>• IFB</li> <li>• Advertise</li> <li>• Open Publicly</li> </ul>  | <ul style="list-style-type: none"> <li>• Scope of Work • RFP</li> <li><i>Factors Relative Importance Evaluate</i></li> <li>• Advertise</li> </ul> |
| <b>Award Contract</b>  | Single Quote<br>No Competition                   | <ul style="list-style-type: none"> <li>• Requires Competition {recommend a minimum of three}</li> <li>• Awarded to "Best Value"</li> </ul> | <ul style="list-style-type: none"> <li>• Requires Competition</li> <li>• Always an Apparent Low Bidder</li> <li>• Awarded to Lowest Cost</li> <li>• Fixed Firm Price Contract.</li> </ul> | <ul style="list-style-type: none"> <li>• Requires Competition</li> <li>• Awarded to Most Advantageous (Best Overall Value)</li> </ul>             |
| <b>Prove Cost Reasonableness</b>                               | Signature signifies that the cost is reasonable. | Apparently obvious or price analysis   | Price Analysis  | 1. Price Analysis {Qualifications & Cost}<br>2. Cost Analysis {Qualifications Only}   |
| <b>Independent Cost Analysis</b>                               | Not Required                                     | Required   | Required  | Required  |
| <b>Bonding Requirements</b>                                    | Not Required                                     | Not Required   | Required for construction Contracts.  | Not Required  |
| <b>Wage Rates</b>  | <b>Required for construction over \$2,000</b>    | Required for construction & maintenance contracts.   | Required for construction & maintenance contracts   | Not Required  |
| <b>Required HUD Forms</b>                                      | Not Required                                     | <b>General Table 5.1</b><br><b>Construction HUD 5370-EZ or HUD 5370</b><br><b>Maintenance – Table 5.1 Sect. II-HUD 5370-C</b>              | <b>Non-Construction HUD-5369-B</b><br><b>HUD-5369-C</b><br><b>HUD-5370-C</b><br><b>Construction HUD-5369 &amp; 5370</b>   | <b>Non-Construction HUD-5369-B</b><br><b>HUD-5369-C</b><br><b>A/E Contract HUD-51915</b>  |
| <b>Check List of Parties Excluded from Federal Procurement</b> | Required   | Required   | Required  | Required  |
| <b>Check List of Denial of Participation</b>                   | Required   | Required   | Required  | Required  |
| <b>Documenting Rationale for Award</b>                         | Historical Data                                  | Historical Data or written summary {Finding of Fact}   | Historical Data or written summary {Finding of Fact}  | Written Summary {Finding of Fact}   |

| Requirements                                   | Procurement of Federal Design Services  |  |
|--|---|--|
|  | Fee Under \$150,000   | Fee Over \$150,000   |
| Procurement Procedure - Method of Procurement. | Choice of using small purchase, competitive proposals, or qualifications- based selection (QBS) procedures in contracting for A/E services. | <p>HUD prefers best and final/competitive range method per Handbook 7.2.N.</p> <p>Qualifications-based selection process also acceptable. Negotiate the fee with the top-ranked designer within the fee limit.</p> <p>Under QBS:</p> <ul style="list-style-type: none"> <li>▪ Request technical qualifications statements from prospective contractors</li> <li>▪ Rank technically 1,2,3</li> <li>▪ Interview 3 top-ranked firms</li> <li>▪ Negotiate with the top-rated firm to reach agreement on a fair and reasonable price.</li> <li>▪ If agreement cannot be reached, negotiate with the next highest rated firm, and so on until a fair and reasonable price is obtained</li> </ul> |
| Advertising                                    | No  | Advertise once in the Central Register and your local newspaper at least two weeks before the deadline for filing applications.  |
| Registration                                   | No  | Yes, by Board of Registration in the appropriate discipline.   |
| Insurance                                      | Yes   | 10% of the total cost of the project or \$1 million, whichever is less.  |
| Davis Bacon Wages                              | No  | No   |



## **APPENDIX B**

### **\$0 - \$10,000**

#### **GENERAL PROVISIONS FOR CONSTRUCTION CONTRACTS ATTACH TO FORM FOR QUOTE**

**1.0 CONTRACT AWARD.** This contract shall be awarded within 30 days to the lowest responsible and eligible bidder as defined in MGL c.149 sec. 4A-J.

#### **2.0 SALES TAX EXEMPTION AND OTHER TAXES**

**2.1** To the extent that materials and supplies are used or incorporated in the performance of this Contract, the Contractor is considered an exempt purchaser under the Massachusetts Sales Act, Chapter 14 of the Acts of 1966. The Contractor shall be responsible for paying all other taxes and tariffs of any sort, related to the work.

#### **3.0 PERMITS, FEES, AND NOTICES**

**3.1** The Contractor shall secure and pay for all necessary permits. The Contractor shall coordinate all efforts required to obtain this permit. All other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work shall be secured and paid for by the Contractor.

**3.2** The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on performance of the Work. If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs.

#### **4.0 INSURANCE REQUIREMENTS**

**4.1** The Contractor shall calculate as part of its price and provide the following insurance coverage. This insurance shall be provided at the Contractor's expense and shall be in full force and effect during the full term of this contract. The Owner shall be named as additional insured on the Contractor's Liability Policies.

**4.2 WORKER'S COMPENSATION.** *Not required if ALL work is done by a self-employed contractor.*  
Worker's Compensation:

Coverage A Per M.G.L. c149 §34 and c152 as amended.

Employer's liability:

Coverage B up to \$500,000 each accident

#### **4.3 CONTRACTOR'S COMMERCIAL GENERAL LIABILITY**

Bodily Injury & \$1,000,000. each occurrence

Property Damage \$1,000,000. general aggregate

#### **4.4 VEHICLE LIABILITY**

Bodily Injury & \$ 200,000. each person

Property Damage \$ 500,000. each accident

\$ 1,000,000. Combined Single Limit

In addition to the coverage listed above the Remediation Contractor shall provide evidence of specific coverage under its Commercial General Liability policy. This additional coverage shall be purchased, paid and maintained by the Remediation Contractor. The policy shall:

1. be written on a "true" occurrence basis without any "sunset" clause;
2. have the pollution exclusion amended to add back coverage for all pollution claims.
3. provide the following limits of insurance:

|   |                              |
|---|------------------------------|
| Bodily Injury & Property Damage Liability | \$1,000,000. each occurrence |
|   | \$1,000,000. aggregate       |
| Products & Completed Operations           | \$1,000,000. aggregate       |
| Personal & Advertising Injury             | \$1,000,000.                 |
| Fire Damage                               | \$50,000.                    |
| Medical Expense                           | \$25,000.                    |

## **TRANSPORTATION**

The Remediation Contractor shall provide evidence that the transporter of all hazardous waste has a Form MCS-90 Endorsement for Master Carriers Policy of Insurance for Public Liability as required under section 29 and 30 of the Motor Carriers Act of 1980 including any amendments thereto.

### **5.0 WAGES**

Bidders shall include in their bid wages calculated from the wage rates established by the Massachusetts Department of Labor and Workforce Development and subject to M.G.L. c.149 §26 to 27H inclusive or Davis Bacon Wage Rates if project is federally funded. This provision does not apply if work is done by a Sole Proprietor, doing the work alone.

**5.1** The Contractor and all subcontractors shall provide certified payroll affidavits verifying compliance with MGL c.149 §§26 - 27H. The Contractor and all subcontractors shall provide a Statement of Compliance within 15 days of the completion of its portion of the work. This statement shall be submitted to the Owner on the form found elsewhere in this section.

### **6.0 REJECTION OF DEFECTIVE MATERIALS AND WORK**

The Owner's inspection of the Work shall not relieve the Contractor of any of its responsibilities to fulfill the Contract obligations, and defective work shall be corrected. Unsuitable work may be rejected by the Owner, notwithstanding that such work and materials have been previously overlooked or misjudged by the Owner and accepted for payment. If the Work or any part thereof shall be found defective at any time before the final acceptance of the whole Work, the Contractor shall forthwith correct such defect in a manner satisfactory to the Owner, and if any material brought upon the site for use in the Work, or selected for the same, shall be rejected by the Owner as unsuitable or not in conformity with the Contract requirements, the Contractor shall forthwith remove such materials from the vicinity of the Work.

### **7.0 EXECUTIVE ORDERS**

The Contractor shall comply with the provisions of EPA Regulation 40 CFR 745; M.G.L. c.151B; Executive Order 526, Order regarding Non-Discrimination, Diversity, Equal Opportunity, Executive Order 527 establishing the Office of Access and Opportunity and Executive Order 481, prohibiting the use of undocumented workers on state contracts and all regulations promulgated pursuant thereto. The aforementioned law, executive orders, regulations and any amendments are incorporated herein by reference and made a part of this Contract.

## **8.0 CONFLICT OF INTEREST**

The Contractor covenants, that (1) presently, there is no financial interest and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or which would violate M.G.L. c.268A, as amended; (2) in the performance of this Contract, no person having any such interest shall be employed by the Contractor or engaged as a subcontractor by the contractor; and (3) no partner or employee of the firm is related by blood or marriage to any Board Member or employee of the Awarding Authority."

## **9.0 TERMINATION**

The Owner may terminate this contract for cause or without cause if it determines that any of the following circumstances have occurred:

- .1 The Contractor is adjudged bankrupt or has made a general assignment for the benefit of its creditors.
- .2 A receiver has been appointed of the Contractor's property.
- .3 All or a part of the Work has been abandoned.
- .4 The Contractor has sublet or assigned all or any portion of the Work, the Contract, or claims thereunder, without the prior written consent of the Owner, except as provided in the Contract Documents.
- .5 The Owner has determined that the rate of progress required on the project is not being met.
- .6 The Contractor has substantially violated any provisions of this Contract.

**9.1** The Owner may complete the work, or any part thereof, and charge its expense of so completing the work or part thereof, to the Contractor.

**9.2** The Owner may take possession of and use any materials, machinery, implements and tools found upon the site of said Work. The Owner shall not be liable for any depreciation, loss or damage to said materials, machinery, implements or tools during said use and the Contractor shall be solely responsible for their removal from the Project site after the Owner has no further use for them.

**9.3.** In the event that this Contract is terminated by the Owner, and termination is not based on a reason listed in Paragraph 9.1, the Contractor shall be compensated for its costs incurred on the Project, including reasonable costs of demobilization, calculated on a percent completion basis. Payment by the Owner shall be considered to fully compensate the Contractor for all claims and expenses and those of any consultants, Subcontractors, and suppliers, directly or indirectly attributable to the termination, including any claims for lost profits.

## **10.0 INDEMNIFICATION**

The Contractor shall take all responsibility for the Work and take all precautions for preventing injuries to persons and property in or about the Work; shall bear all losses resulting from or on account of the amount or character of the Work. The Contractor shall pay or cause payment to be made for all labor performed or furnished and for all materials used or employed in carrying out this Contract. The Contractor shall assume the defense of, and indemnify and save harmless, the Owner and their officers and agents from all claims relating to: labor performed or furnished and materials used or employed for the Work; inventions, patents and patent rights used in and in doing the Work unless such patent infringement is due to a product or process specified by the Owner; injuries to any person or corporation received or sustained by or from the Contractor and any employees, and Subcontractors and employees, in doing the work, or in consequence of any improper materials, implements or labor used or employed therein; and any act, omission, or neglect of the Contractor and any employees.

**OWNER CONTRACTOR AGREEMENT – (STATE CONSTRUCTION)**

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_ by and between \_\_\_\_\_, hereinafter called the "Contractor," and the **Salem Housing Authority** hereinafter called the "Authority",

WITNESSETH, that the Contractor and the Authority for the consideration herein agree as follows:

**Article 1. Scope of Work:** The Contractor shall perform all work required by the Contract Documents for \_\_\_\_\_ prepared by \_\_\_\_\_, acting as and referred to in the Contract Documents as the "**Architect**".

**Article 2. Time of Completion:** The Contractor shall commence work under this Contract on the date specified in the written "Notice to Proceed" and shall bring the Work to Substantial Completion within \_\_\_\_\_ calendar days as stated in Contract Documents. Damages for delays in the performance of the Work shall be in accordance with Article 9 of the General Conditions of the Contract.

**Article 3. Contract sum:** The Owner shall pay the Contractor, in current funds, for the performance of the Work, subject to additions and deductions by Change Order of the Contract Sum of \_\_\_\_\_ \$ \_\_\_\_\_.

*[Delete if no filed subs]*

The Contract Sum is divided as follows: *(Only applies if there are filed sub bids)*

Item 1 ..... \$ \_\_\_\_\_

Item 2: Subcontractors as follows:

| Section – Trade | Subcontractor | Amount |
|-----------------|---------------|--------|
| 1.              |               |        |
| 2.              |               |        |
| 3.              |               |        |

Total of item 2.....\$ \_\_\_\_\_

**Article 4. The Contract Documents:** The following, together with this Agreement, form the Contract and all are as fully a part of the contract as if attached to this Agreement or repeated herein: The Advertisement, Bidding Documents, Contract Forms, Conditions of the Contract, and Specifications as enumerated in the Table of Contents, the drawings as enumerated in the List of Contract Drawings, DHCD publication known as the Construction Handbook, and all Modifications issued after execution of the Contract. Terms used in this Agreement, which are defined in the Conditions of the Contract, shall have the meanings designated in those Conditions.

**Article 5. Alternates:** The following Alternates have been accepted and their costs are included in the Contract Sum stated in Article 3 of this Agreement:

**Article 6. REAP Certification:** Pursuant to M.G.L. c62(c) §49(a), the individual signing this Contract on behalf of the Contractor, hereby certifies, under the pains and penalties of perjury, that to the best of its knowledge and belief the Contractor has complied with any and all applicable state tax laws.

**Article 7. Worker Documentation Certification:** In accordance with Executive Order 481 the undersigned further certifies under the penalties of perjury that the Contractor shall not knowingly use undocumented workers in connection with the performance of this contract; that pursuant to federal requirements, the Contractor shall verify the immigration status of all workers assigned to such contract without engaging in unlawful discrimination; and that it shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker(s). The Contractor understands and agrees that breach of any of these terms during the contract period may be regarded as a material breach, subjecting the Contractor to sanctions, including but not limited to monetary penalties, withholding of payments, contract suspension or termination.

**Article 8. Conflict of Interest:** The Contractor covenants, that (1) presently, there is no financial interest and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or which would violate M.G.L. c.268A, as amended; (2) in the performance of this Contract, no person having any such interest shall be employed by the Contractor or engaged as a subcontractor by the contractor; and (3) no partner or employee of the firm is related by blood or marriage to any Board Member or employee of the Awarding Authority.

**Article 9. Validation:** This Contract will not be valid until signed by the Undersecretary of the Massachusetts Department of Housing and Community Development.

*In Witness Whereof, the Parties Hereto Have Caused This Instrument to be Executed Under Seal.*

**1 CONTRACTOR**

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Address Signature and Seal

By: \_\_\_\_\_  
Signature and Seal Title

Witness: \_\_\_\_\_

1 If a Corporation, attach a notarized copy of the Corporate Vote authorizing signatory to sign Contract.

**2 AWARDING AUTHORITY**

\_\_\_\_\_  
Name of Housing Authority

\_\_\_\_\_  
Address Signature and Seal

By: \_\_\_\_\_  
Signature and Seal Title

Attest: \_\_\_\_\_

2 If signed by someone other than a Housing Authority Board member attach a copy of Certified Board Vote authorizing the signatory to sign Contract.

**DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT**

In accordance with M.G.L. 121B, and Revisions thereto.

\_\_\_\_\_  
Undersecretary or its Designee

Date: \_\_\_\_\_



**OWNER CONTRACTOR AGREEMENT – (FEDERAL CONSTRUCTION)**

THIS AGREEMENT, designated No , made this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_ by and between \_\_\_\_\_, hereinafter called the "Contractor," and the **Salem Housing Authority**, a public body, politic and corporate, organized and existing under the Housing Authority Law of the Commonwealth of Massachusetts, hereinafter called the "Authority",

WITNESSETH, that the Contractor and the Authority for the consideration herein agree as follows:

**Article 1. Scope of Work:** The Contractor shall perform all work required by the Contract Documents for \_\_\_\_\_ prepared by \_\_\_\_\_, acting as and referred to in the Contract Documents as the "**Architect**".

**Article 2. Time of Completion:** The Contractor shall commence work under this Contract on the date specified in the written "Notice to Proceed" and shall bring the Work to Substantial Completion within \_\_\_\_\_ calendar days as stated in Contract Documents -Summary of Work. Damages for delays in the performance of the Work shall be in accordance with the Supplemental Conditions of the Contract.

**Article 3. Contract sum:** The Owner shall pay the Contractor, in current funds, for the performance of the Work, subject to additions and deductions by Change Order of the Contract Sum of \_\_\_\_\_ (\$ \_\_\_\_\_).

The Contract Sum is divided as follows: *(Only applies if there are filed sub bids)*

Item 1: .....\$ \_\_\_\_\_

Item 2: Subcontractors as follows: *[Delete if no filed subs]*

| Section – Trade | Subcontractor | Amount |
|-----------------|---------------|--------|
| 1.              |               |        |
| 2.              |               |        |
| 3.              |               |        |

Total of item 2 .....\$ \_\_\_\_\_

**Article 4. The Contract Documents:** The following, together with this Agreement, form the Contract and all are as fully a part of the contract as if attached to this Agreement or repeated herein: The Advertisement, **HUD-5369A Certifications and other statements of Bidders, HUD 2530 Previous Participation, HUD 5370 General Conditions of the Contract [HUD 5370 EZ \$3,501-\$150,000)** , Bidding Documents, Contract Forms, Specifications and Drawings enumerated in the Table of Contents and all Modifications issued after execution of the Contract. Terms used in this Agreement which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions govern. The various provisions in Addenda shall be construed in the order of preference of the component part of the Contract which each modifies.

**Article 5. Alternates:** The following Alternates have been accepted and their costs are included in the Contract Sum stated in Article 3 of this Agreement:



**Article 6. REAP Certification:** Pursuant to M.G.L. c62(c) §49(a), the individual signing this Contract on behalf of the Contractor, hereby certifies, under the pains and penalties of perjury, that to the best of its knowledge and belief the Contractor has complied with any and all applicable state tax laws.

**Article 7. Worker Documentation Certification:** In accordance with Executive Order 481 the undersigned further certifies under the penalties of perjury that the Contractor shall not knowingly use undocumented workers in connection with the performance of this contract; that pursuant to federal requirements, the Contractor shall verify the immigration status of all workers assigned to such contract without engaging in unlawful discrimination; and that it shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker(s). The Contractor understands and agrees that breach of any of these terms during the contract period may be regarded as a material breach, subjecting the Contractor to sanctions, including but not limited to monetary penalties, withholding of payments, contract suspension or termination.

**Article 8. Conflict of Interest:** The Contractor covenants, that (1) presently, there is no financial interest and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or which would violate M.G.L. c.268A, as amended; (2) in the performance of this Contract, no person having any such interest shall be employed by the Contractor or engaged as a subcontractor by the contractor; and (3) no partner or employee of the firm is related by blood or marriage to any Board Member or employee of the Awarding Authority.

*In Witness Whereof, the Parties Hereto Have Caused This Instrument to be Executed Under Seal.*

Attest: \_\_\_\_\_

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Salem Housing Authority

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## APPENDIX D

### CONTRACT FOR [ ] GOODS OR SERVICES

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the \_\_\_\_\_ Housing Authority, hereinafter called the "Owner", and \_\_\_\_\_ hereinafter called the "Contractor".

Witnesseth, that the Owner and the Contractor, for the consideration hereinunder named, agree as follows:

**Article 1. Scope of Work.** The Contractor shall perform all the Work required by the Contract Documents prepared by the \_\_\_\_\_ Housing Authority for \_\_\_\_\_ at \_\_\_\_\_.

**Article 2. Term of Contract.** The Contractor shall commence work under this Contract on \_\_\_\_\_ and contract shall automatically terminate \_\_\_\_ year(s) from its effective date.

**Article 3. Suspension and Termination.** The awarding authority may terminate this Contract for cause or without cause by giving written notice to the other party at least thirty (30) calendar days prior to the effective date of termination in the Notice.

**Article 4. Contract Sum.** The Owner shall pay in current funds the Contractor for the performance of the Work the Contract Sum of \_\_\_\_\_ dollars (\_\_\_\_). Payments will be made in accordance with the terms set forth in the Contract Documents.

**Article 5. Insurance Requirements.** The Contractor shall provide insurance coverage general liability, vehicle liability and workers' compensation in amounts required in the Contract Documents or by statute.

**Article 6. Conflict of Interest.** The Contractor covenants, that (1) presently, there is no financial interest and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or which would violate M.G.L. c.268A, as amended; (2) in the performance of this Contract, no person having any such interest shall be employed by the Contractor; and (3) no partner or employee of the firm is related by blood or marriage to any Board Member or employee of the Awarding Authority.

**Article 7. Equal Opportunity.** The Contractor shall not discriminate in employment against any person on the basis of race, color, religion, national origin, sex, sexual orientation, age, ancestry, disability, marital status, veteran status, membership in the armed forces, presence of children, or political beliefs. The Contractor to use best efforts to employ qualified tenants of the awarding authority for any positions, which are open at the time the contract, is awarded or which become open during the term of the contract.

**Article 8. The Contract Documents.** The following, together with this Agreement form the Contract and all are as fully a part of the Contract as if attached to this Agreement or repeated herein: Invitation to Bid, the Bidding Documents, the Conditions of the Contract, the Contractor's Bid Submission, and, any amendments or addenda issued prior to award and any modification agreed to after the award. No contract amendments shall be made except in writing upon the express agreement of the parties, approved by DHCD and in accordance with the provisions of M.G.L. c.30B. *[Add to clause by inserting HUD 5369 B & C; HUD 5370 – \$150,000 or more]*

**Article 9. REAP Certification.** Pursuant to M.G.L. c.62(c), §49(a), the individual signing this Contract on behalf of the Contractor, hereby certifies, under the penalties of perjury, that to the best of their knowledge and belief the Contractor has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.



**Article 10. Certification of Non-Collusion.** The undersigned further certifies under penalties of perjury that their bid/proposal has been made in and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the work "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

**Article 11. Worker Documentation Certification.** In accordance with Executive Order 481 the undersigned further certifies under the penalties of perjury that the Contractor shall not knowingly use undocumented workers in connection with the performance of this contract; that pursuant to federal requirements, the Contractor shall verify the immigration status of all workers assigned to such contract without engaging in unlawful discrimination; and that it shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker(s). The Contractor understands and agrees that breach of any of these terms during the contract period may be regarded as a material breach, subjecting the Contractor to sanctions, including but not limited to monetary penalties, withholding of payments, contract suspension or termination.

**Article 12. Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

**Article 13. Validation.** [N/A for federal contracts] This Contract will not be valid until signed by the Undersecretary of the Department of Housing and Community Development or his/her designee.

[Delete If Under \$50k.]

In Witness Whereof, the Parties Hereto Cause This Instrument to be Executed Under Seal.

**CONTRACTOR**

\_\_\_\_\_  
(Name of Contractor)

By: \_\_\_\_\_

(Signature & Seal)

\_\_\_\_\_  
(Title)

Attest: \_\_\_\_\_

\*If a corporation, attach a  
Notarized copy of the corporate vote  
authorizing signatory to sign contract.

**AWARDING AUTHORITY**

\_\_\_\_\_  
(Name of Awarding Authority)

By: \_\_\_\_\_

(Signature and Seal)

\_\_\_\_\_  
(Title)

Attest: \_\_\_\_\_

**DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT**

[Delete If Under \$50k.]

In accordance with G.L. c.121B,  
as amended.

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

**ATTACH TO FEDERAL NON-CONSTRUCTION CONTRACTS**

**\$3,501 - \$150,000**

**SUPPLEMENTAL CONDITIONS - TABLE 5.1 of HUD Procurement Handbook 7460.8 REV 2  
MANDATORY CONTRACT CLAUSES FOR SMALL PURCHASES  
OTHER THAN CONSTRUCTION**

The following contract clauses are required in contracts pursuant to **24 CFR 85.36(i) and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.** HUD is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy. The PHA and contractor is also subject to other Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and state law and regulations.

**Examination and Retention of Contractor's Records.** The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

**Right in Data and Patent Rights (Ownership and Proprietary Interest).** The PHA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by Contractor pursuant to the terms of this Contract, including, but not limited to, reports, memoranda or letters concerning the research and reporting tasks of the Contract.

**Energy Efficiency.** The Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed.

**Procurement of Recovered Materials**

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

**Termination for Cause and for Convenience (contracts of \$10,000 or more).**

- (a) The PHA may terminate this contract in whole, or from time to time in part, for the PHA's convenience or the failure of the Contractor to fulfill the contract obligations (cause/default). The PHA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the PHA all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.
- (b) If the termination is for the convenience of the PHA, the PHA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (cause/default), the PHA may (1) require the Contractor to deliver to it, in the manner and to the extent directed by the PHA, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the PHA; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the PHA by the Contractor. In the event of termination for cause/default, the PHA shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. The Contracting Officer shall decide any dispute.

**FREQUENTLY USED HUD FORMS**

HUD-2516 "Contract and Subcontract Activity Report"

HUD-5369 "Instructions to Bidders for Contracts"

HUD-5369-A "Representations, Certifications, and Other Statements of Bidders"

HUD-5369-B "Instructions to Offerors-Non-Construction"

HUD-5370 "General Conditions of the Contract for Construction"

HUD-5370-C "General Contract Conditions for Non-Construction Contracts"

HUD-5370-EZ "General Conditions of the Contract for Small Construction/Development Contracts"

HUD-51915 "Model Form of Agreement Between Owner and Design Professional"

HUD-51915-A "Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development"

HUD-52158 "Maintenance Wage Rate Determinations"

HUD-53010 "Low-Rent Public Housing Annual Contributions Contract, Part I"

HUD-53011 "Low-Rent Public Housing Annual Contributions Contract, Part II"

HUD-53012-A "Terms and Conditions"

HUD-60002 "Economic Opportunities for Low and Very Low-Income Persons"

WH-347 "Payroll"



**Appendix A: Contracts Exempt from Chapter 30B**

The following contracts are exempt from the requirements of Chapter 30B.

1. Public construction contracts subject to the provisions of M.G.L. c. 30, § 39M; M.G.L. c. 25A, §§ 11C and 11I; or M.G.L. c. 149, §§ 44A-44J, inclusive. See M.G.L. c. 30B, § 1 (b)(1). See Chapter 9 for information on design and construction projects.
2. Public building design contracts subject to the provisions of M.G.L. c. 7C, §§ 44-57, inclusive. See M.G.L. c. 30B, § 1(b)(2). See Chapter 9 for information on design and construction projects.
3. Intergovernmental service agreements under the provisions of M.G.L. c. 40, § 4A. See M.G.L. c. 30B, § 1(b)(3).
4. Agreements with the Commonwealth, except subsection (i) of Section 16. See M.G.L. c. 30B, § 1(b)(4).
5. Contracts for the purchase of materials, under specifications of the Massachusetts Highway Department (now known as Massachusetts Department of Transportation Highway Division), 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 M.G.L. c. 81 or M.G.L. c. 90. See M.G.L. c. 30B, § 1(b)(5).
6. Contracts for the advertising of required notices. See M.G.L. c. 30B, § 1(b)(6).
7. An agreement between agencies, boards, commissions, authorities, departments or public instrumentalities of one city or town. See M.G.L. c. 30B, § 1(b)(7).
8. An agreement for the provision of special education pursuant to M.G.L. c. 71B and regulations promulgated pursuant thereto. See M.G.L. c. 30B, § 1(b)(8).

*This exemption applies to direct services delivered to children with special needs, such as transportation, counseling or education under an individual education program, as well as to any supplies used by children with special needs as part of an individual educational program. Other supplies and services, however, are not exempt simply because they are procured by the special education department. For example, office supplies or computers to be used for office administration would not fall under this exemption.*

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 to another state or its political subdivision. See M.G.L. c. 30B, § 1(b)(9).
10. The issuance of bonds, notes or securities in accordance with procedures established by law. See M.G.L. c. 30B, § 1(b)(10).

11. Contracts and investments made in connection with deferred compensation programs for employees in accordance with M.G.L. c. 35, §§ 57-57A or M.G.L. c. 44, §§ 67-67A. See M.G.L. c. 30B, § 1(b)(11).

12. A contract for the procurement of insurance or surety bonds, including an agreement subject to the provisions of M.G.L. c. 40M, § 1-16 or M.G.L. c. 152, §§ 25E-25U. See M.G.L. c. 30B, § 1(b)(12).

*The procurement of an insurance contract is exempt from Chapter 30B. Contracts for insurance-related services, however, are not exempt. You must follow Chapter 30B to procure insurance consulting, claims administration or third-party billing services.*

13. Contracts for the services of expert witnesses for use in an adjudicatory proceeding, litigation, or in anticipation of litigation. See M.G.L. c. 30B, § 1(b)(13).

14. Contracts or agreements entered into by a municipal gas or electric department governed by a municipal light board, as defined by M.G.L. c. 164 or by a municipal light commission, as defined by M.G.L. c. 164; provided, however, that any such board or commission may accept the provisions of this chapter by a majority vote of its members. See M.G.L. c. 30B, § 1(b)(14).

15. Contracts with labor relations representatives, lawyers or certified public accountants. See M.G.L. c. 30B, § 1(b)(15).

*This exemption applies only to services that could reasonably be restricted exclusively to labor relations representatives, lawyers or certified public accountants. Service contracts are not exempt from Chapter 30B simply because you select a labor relations representative, lawyer or certified public accountant to perform the service. For example, a contract to computerize your accounting system is subject to Chapter 30B even if you contract with a CPA firm for the work.*

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. See M.G.L. c. 30B, § 1(b)(16).

*This exemption applies only to services that could reasonably be restricted exclusively to physicians, dentists and other health care individuals or entities. Other health care-related service contracts are not exempt from Chapter 30B simply because you select a physician, dentist or other health care individual to perform the service.*

17. A contract for snow plowing services. See M.G.L. c. 30B, § 1(b)(17).

18. A contract or lease by a governmental body of its boat slips, berths or moorings. See M.G.L. c. 30B, § 1(b)(18).

19. A contract for retirement board services. See M.G.L. c. 30B, § 1(b)(19).

20. A contract that is funded by proceeds derived from a gift to a governmental body or a trust established for the benefit of a governmental body. See M.G.L. c. 30B, § 1(b)(20).

21. A contract for the towing and storage for motor vehicles. See M.G.L. c. 30B, § 1(b)(21).

22. A contract to provide job-related training, educational or career development services to the employees of a governmental body. See M.G.L. c. 30B, § 1(b)(22).

23. A contract pursuant to which a governmental body obtains services from a bank, as defined in M.G.L. c. 167, § 1, subject to the maintenance of a compensating balance. See M.G.L. c. 30B, § 1(b)(23).

*Compensating balance contracts are also subject to the provisions of M.G.L. c. 44, § 53F, and rules established by the state Department of Revenue.*

24. A contract for ambulance service by a governmental body. See M.G.L. c. 30B, § 1(b)(24).

*The procurement of ambulances is subject to Chapter 30B.*

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. See M.G.L. c. 30B, § 1(b)(25).

26. A contract for the collection of delinquent taxes or for the services of a deputy tax collector. See M.G.L. c. 30B, § 1(b)(26).

27. Contracts or agreements entered into by a municipal hospital or a municipal department of health. See M.G.L. c. 30B, § 1(b)(27).

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. See M.G.L. c. 30B, § 1(b)(28).

29. Contracts, agreements or leases entered into by a municipal airport commission established under the provisions of M.G.L. c. 90, § 51E, provided, however, that such contracts, agreements or leases apply to aviation uses or the sale of aviation fuel. See M.G.L. c. 30B, § 1(b)(29).

30. A contract for the collection, transportation, receipt, processing or disposal of solid waste, recyclable materials or compostable materials. See M.G.L. c. 30B, § 1(b)(30).

*Hazardous waste contracts and sludge disposal contracts are not exempt.*

31. An agreement for photography services entered into by a public school. See M.G.L. c. 30B, § 1(b)(31).

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. See M.G.L. c. 30B, § 1(b)(32).

32A. Contracts with architects, engineers and related professionals. See M.G.L. c. 30B, § 1(b)(32A).

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 (s) 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. See M.G.L. c. 30B, § 1(b)(33).

*Appendix B of this manual contains form entitled Contracts for Energy and Energy-Related Services: Chapter 30B Compliance Form, which the Office developed to assist governmental bodies in complying with the above requirements.*

34. Contracts entered into between the Department of Public Health and regional emergency medical services councils pursuant to M.G.L. c. 111C, § 5. See M.G.L. c. 30B, § 1(b)(34).

35. Acquisitions by a city or town of real property or interests in real property for the purpose of community preservation and upon the recommendation of the community preservation committee are not subject to M.G.L. c. 30B, § 16. See M.G.L. c. 44B, § 5(f).



**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**



John A. Boris, Chairman  
Frank J. Milo, Vice Chairman  
Maureen Call, Treasurer  
Kimberley Driscoll  
Claudia F. Chuber

Carol A. MacGown, Executive Director

EXTRACT FROM THE MINUTES OF THE  
SPECIAL MEETING OF THE BOARD MEMBERS OF THE  
SALEM HOUSING AUTHORITY HELD ON  
WEDNESDAY, NOVEMBER 28, 2018 AT 6:00 P.M.

The BOARD MEMBERS of the SALEM HOUSING AUTHORITY met in a SPECIAL MEETING at the office of the Authority, 27 Charter Street in the City of Salem, Massachusetts on WEDNESDAY, NOVEMBER 28, 2018 at 6:00 P.M., the place, hour, and date duly established for the holding of such meeting.

The meeting was called to order at 6:00 p.m. by John A. Boris, Chairman and upon a roll call, the following answered present:

Present

Maureen Call  
Frank J. Milo  
Claudia F. Chuber  
John A. Boris

Absent

Kimberley Driscoll

Also Present: Carol MacGown, Anne Cameron and Richard Fenton, CPA

The Chairman declared a quorum present.

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MOTION

The following resolution was introduced by John A. Boris, Chairman, read in full, and considered:

Maureen Call moved to approve the Procurement Policy as presented. Frank J. Milo seconded the motion and the vote was as follows:

Ayes

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Nays

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The Chairman thereupon declared the motion carried.

