

PROCUREMENT POLICIES



TOWN OF NANTUCKET MASSACHUSETTS

Procurement Office:

Town of Nantucket
16 Broad Street, 2nd floor
Phone: 508-228-7000, ext. 7309
Fax: 508-228-7272

Procurement Officer, Heidi Bauer
Email: hbauer@nantucket-ma.gov

Adopted by Board of Selectmen August 7, 2013
Changes adopted by Board of Selectmen January 8, 2014
Changes adopted by Board of Selectmen July 23, 2014

PROCUREMENT POLICIES
Town of Nantucket, Massachusetts

INDEX

- 1.0 OBJECTIVE**
- 2.0 PROCUREMENT PROCEDURE**
- 3.0 OVERVIEW OF PROCUREMENT LAWS**
 - 3.1 Procurement of Supplies & Services: M.G.L. c. 30B
 - 3.2 Public Works Construction: M.G.L. c. 30, 39M
 - 3.3 Public Building Construction: M.G.L. c.149
 - 3.4 Procurement of Design Services: MGL c.7C, §44-57
 - Bidding Procedures applicable to each type of procurement
- 4.0 PROCUREMENT OF GOODS & SERVICES**
 - 4.1 Bidding Thresholds**
 - 4.1.1 Procurements estimated to cost less than \$10,000
 - 4.1.2 Procurements estimated to cost between \$10,000 and \$34,999
 - 4.1.3 Procurements estimated to cost between \$35,000-\$99,999
 - 4.1.4 Procurements estimated to cost \$100,000 or more
 - 4.1.5 Legal Notices
 - 4.1.6 Contracts must be in writing
 - 4.1.7 Encumbering Funds
 - 4.1.8 30B Reference Chart
 - 4.2 Procuring Public Works (DPW) Construction Projects: M.G.L. c. 30, 39M (NON-Building Construction)**
 - 4.2.1 DPW Construction Projects \$.01-\$9,999
 - 4.2.2 DPW Construction Projects between \$10,000 – or More
 - 4.2.3 Procuring DPW projects under 30B §5 (\$10,000-\$24,999)
 - 4.2.4 DCAM Procedure and Requirements
 - 4.2.5 Public Works Reference Charts
 - 4.3 Procuring Building I Construction Services: M.G.L. c.149**
 - 4.3.1 Building Construction between \$.01-\$9,999
 - 4.3.2 Building Construction between \$10,000-\$24,999
 - 4.3.3 Building Construction between \$25,000-\$99,999
 - 4.3.4 Building Construction \$100,000 or More
 - 4.3.5 DCAM Procedure and Requirements
 - 4.3.6 Use of State Contracts for Tradesperson- Repair and Maintenance ONLY
 - 4.3.7 Construction/Facility Improvement Reference Charts
- 5.0 INVITATION FOR BID (IFB) / REQUEST FOR PROPOSAL (RFP)**
 - 5.1 IFB/RFP Procedure

- 6.0 FINALIZING THE CONTRACT**
 - 6.1 Contract Award
 - 6.2 Appropriation of Funds
 - 6.3 Use of State Contracts
 - 6.4 Nantucket Contract Forms
 - 6.5 Multi Year Contracts

- 7.0 MUNIS PURCHASING PROCEDURES**
 - 7.1 Munis Documentation of Quotes
 - 7.2 Munis Appropriation of Funds for the Procurement
 - 7.3 Munis Procedure for IFB/RFP Contracts

- 8.0 ANNUAL/REVOLVING CONTRACTS**

- 9.0 SOLE SOURCE PROCUREMENT**
 - 9.1 Sole-Source Procurement under \$35,000
 - 9.2 Sole-Source Procurement \$35,000 or More

- 10.0 EMERGENCY PROCUREMENT**

- 11.0 DISPOSITION OF SURPLUS PROPERTY**

- 12.0 PREVAILING WAGE**
 - 12.1 Blanket Wage Rates for Smaller Project under \$10,000
 - 12.2 How to Order Prevailing Wage Rates
 - 12.3 When Required for Building & Public Works Projects
 - 12.4 When Required for the Hiring of a Vehicle in the Performance of a Public Work

- 13.0 CONTRACT EXCEPTIONS AND EXEMPTIONS**
 - 13.1 Contract Exceptions
 - 13.2 Real Estate Transactions
 - 13.3 Contract Exemptions

- 14.0 CHARTS & FORMS**

PROCUREMENT POLICIES

TOWN OF NANTUCKET, MASSACHUSETTS

GENERAL OVERVIEW

1.0 OBJECTIVE

The Town has established a Procurement Office within the Town Administration organization. The Procurement Office is managed by the Town's Chief Procurement Officer, who is appointed by the Town Manager pursuant to G.L. c. 30B, sec. 1 and is responsible for the procurement of supplies and services on behalf of the Town. It is the responsibility of the Chief Procurement Officer to secure quality goods and services while promoting fair competition and competitive pricing.

2.0 PROCUREMENT PROCEDURE

All Town departments including the School Department and departments that operate through an enterprise fund, are subject to state procurement laws, inclusive but not limited to MGL30B, 7C, 30 and 149, and are responsible for meeting all requirements. Departments under the jurisdiction of the Town Administration must follow all procurement policies and procedures as established by the Town Manager and the Chief Procurement Officer. A Request for Proposals issued by any Town department must receive the prior approval of the Chief Procurement Officer pursuant to G.L. c. 30B, sec. 6. The Chief Procurement Officer provides internal support to monitor purchases and ensure procurement practices are in compliance with applicable law(s). The Chief Procurement Officer is available to provide guidance and procurement assistance to all Town departments, in the development and solicitation of public bids and proposals through quotes, the Invitation for Bid (IFB) and Request for Proposal (RFP) process for the procurement of goods and services, contract administration and monitoring of invoices which follow the contract award.

3.0 OVERVIEW OF PROCUREMENT LAWS.

The supply or service, and its application within the Town shall determine what legal requirements must be met in order for the procurement to be compliant with applicable purchasing laws. Departments must evaluate the procurement need and then follow the procedures that apply.

A majority of purchases will fall into one of the following three categories:

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

- Unless expressly exempt from public bidding under G.L. c. 30B, sec. 1, the purchase of any supplies or services by the Town meeting certain monetary thresholds require compliance with the procurement procedures contained in G.L. c. 30B.

3.2 Public Works Construction: M.G.L. c. 30, 39M

- Procurement of a contractor for the construction, reconstruction, installation, demolition, maintenance or repair of a public work requires public bidding. A public works construction project is generally considered any horizontal construction activity that involves any land disturbance, but excluding the construction of a building.

3.3 Public Building Construction: MGL c.149, §44A to 44M.

- Procurement of a contractor for the construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency is subject to the Filed Sub-Bid Law, MGL c. 149, § 44A to 44M.

3.4 Procurement of Design Services: MGL c. 7C, § 44-57.

- Procurement of design services (Architect/Engineer, etc) in connection with a public building project are subject to the Designer Selection Law, Design services in connection with a public works construction project are exempt from all bidding requirements as long as the Town hires a designer that fits the definition contained in MGL c. 30B, sec. 2.¹

BIDDING PROCEDURES APPLICABLE TO EACH TYPE OF PROCUREMENT

4.0 PROCUREMENT OF GOODS AND SERVICES

Departments shall comply with state procurement laws and Town policies, and are responsible for meeting all requirements. Although there are several types of procurements that are exempt from public bidding under MGL c. 30B, sec. 1, the Chief Procurement Office must approve in advance the procurement of any exempt supply or service with public bidding.² Once the need for the procurement has been identified and the nature of the goods or services determined, the applicable procurement procedures must be followed:

4.1 Bidding Thresholds

4.1.1 Procurements for Goods & Services estimated to costs less than \$10,000

Procurement of supplies and services estimated to cost less than \$10,000 must be conducted using “sound business practice”. M.G.L. c. 30B sec. 2 defines “sound business practice” to mean periodically checking price lists or seeking price quotes to ensure that you are receiving a competitive price for the supply or service. Sound reasoning could also consist of consideration of quality, experience or qualifications of vendor providing a service, availability, proximity of service, etc. Therefore, for procurements of goods and services costing less than \$10,000, departments must periodically check price lists from competing vendors and purchase goods and services at the lowest available price. The solicitation of quotes when possible is encouraged even for procurements estimated to cost less than \$10,000.

4.1.2 Procurements estimated to cost between \$10,000-\$34,999.99

The procurement of supplies and services costing between \$10,000 and 34,999.99 will require the solicitation of at least three written quotations from potential vendors. Documentation of quotes solicited shall be documented on a standard quote sheet available from the Chief Procurement Officer. The contract must be awarded to the vendor offering the lowest quote who meets all of the specifications.

4.13 Procurements estimated to cost between \$35,000-\$99,999.99

¹ The Massachusetts Attorney General’s Office of Fair Labor Standards and the Massachusetts Inspector General have published a chart that sets forth the application of each of the bidding statutes set forth above, and provides helpful information on such topics as threshold dollar amounts, publication requirements, and other requirements. Go to: <http://www.mass.gov/ig/publications/guides-advisories-other-publications/charts-proc.pdf>. Portions of the chart are reprinted in this manual in the appropriate sections, and a complete copy of the chart is included in the Appendix.

² A complete list of procurements exempt from c. 30B is set forth in Section 13.2 of this manual.

An "Invitation for Bid" (IFB) or a "Request for Proposal" (RFP) is required to promote competition and public invitation for all non exempt procurements estimated to cost more than \$35,000. An IFB should be used for all procurements of goods and services in circumstances where award to the bidder offering the lowest price is preferred. If the department has determined that consideration of factors other than price is important, an RFP should be used because the RFP process is the only procurement method that allows the Town to award a proposal based on what is determined to be on the best interests of the Town taking into consideration both price and the evaluation criteria set forth in the RFP. No department may utilize the RFP process, however, unless the Chief Procurement Officer has determined in writing that factors other than price are important considerations. It is therefore imperative that departments consult with the Chief Procurement Officer before issuing an RFP.

The Procurement Officer collaborates with the department to prepare an IFB/RFP and issues the bid. The Procurement Officer reviews the bids or proposals received for responsiveness ensuring they are complete and documentation of the requirements is provided. It is the responsibility of the department to perform reference checks on conforming bids or proposals to ensure that vendors or contractors are responsible and responsive. Any bids or proposals received from vendors that are deemed to be not responsible or responsive must be rejected. Bids are awarded and contracts are generally awarded, with some exceptions, to the responsible vendor that offers the lowest price or highest price if it is a sale of property or supply. Proposals are awarded to a responsible vendor that offers the most advantageous proposal taking into account price and the evaluation criteria contained in the RFP.

4.1.4 Procurements estimated to cost between \$100,000 or more

The procurement of supplies and services over \$100,000 will require an advertised legal notice posted in the *Goods & Services Bulletin* one time at least 2 weeks before the bid or proposal deadline.³

4.1.5 Legal Notices.

Legal notices are developed and distributed for advertising and public notice by the Procurement Officer. There are strict legal requirements for publication of procurements and they can differ considerably depending on the nature of the procurement. Legal notices for the procurement of goods and services, for example, must be published once in a local newspaper (The Inquirer & Mirror) at least 2 weeks before the public bid or proposal deadline. Legal notices are also placed in the *Goods & Services Bulletin* or the *Central Register* at least 2 weeks before the bid or proposal deadline, 30 days for Real Estate. A legal notice should be posted on the public bulletin board at Town Hall and/or on the Town of Nantucket's website. A complete listing of the publication requirements for each type of procurement is listed in the Inspector General's chart referenced in Footnote 1.

³ The Inspector General's Office is responsible for enforcement of MGL Chapter 30B, the procurement law that governs most purchases not related to public works and building construction. The following Procurement Manuals are available on line at the Inspector General's website at the following links: <http://www.mass.gov/ig/publications/manuals/30bmanl.pdf> (c. 30B Manual); <http://www.mass.gov/ig/publications/manuals/dcmanual.pdf> (public construction).

4.1.6 Contracts Must be in Writing.

A written contract is required by MGL c. 30B, sec. 17 for any procurement costing more than \$ 10,000. Anytime a department or Town entity expects to spend more than \$ \$10,000 in one fiscal year, the Town of Nantucket requires a written contract. It is the responsibility of the department to provide the Procurement Office with proper specifications for bids or a detailed scope of services setting forth a clear description of the goods or services to be procured. The scope of services must be provided before issuing the appropriate procurement document and must be incorporated into the written contract. **The procurement of any supply or services costing more than \$ 10,000 requires a written contract regardless of whether the particular supply or service is exempt from c. 30B.**

For procurements by the School, the contract must be approved by the School Committee in accordance with written procedures to be adopted by the School Committee and approved by the Chief Procurement Officer. In the case of the Nantucket Airport Commission, the Land Bank and the Nantucket Water Company, all contracts must be approved by their respective Commissions and are subject to review and approval by the Chief Procurement Officer. For all other departments of the Town of Nantucket written contracts must be approved by the Board of Selectmen and the Chief Procurement Officer. Original copies of fully executed contracts must be filed with the Finance Department and the Chief Procurement Officer.

4.1.7 Encumbering Funds.

When a contract price total is available upon the award of an IFB or RFP contract, Finance will generate a purchase order requisition to be approved by the Department Head to encumber all funds upfront. Upon approval by the Chief Procurement Officer, the purchase order number should be provided to the vendor and written on page 1 of the contract to be referenced on invoices they submit to the Town for payment. Contracts must be done in triplicate as one fully executed original goes to the vendor, one to the CPO and one to the Finance department. The department should also retain a copy of the contract, preferably in electronic form.

4.1.8 30B Reference Chart

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

Estimated Contract Amount	Under \$10,000	\$10,000 to \$34,999	\$35,000 and over
Procurement Procedure	Sound business practices. ¹	Solicit three written or oral quotes.	Sealed bids or proposals. (M.G.L. c. 30B, §§ 5 or 6).
Advertising Required	No.	No.	Advertise once in a newspaper of general circulation at least two weeks before bids or proposals are due, and post a notice on your jurisdiction's bulletin board or website for two weeks before bids or proposals are due. If \$100,000 or more, advertise once in the <i>Goods and Services Bulletin</i> at least two weeks before bids or proposals are due.
Award contract to:	Person offering the best price.	Responsible ² and responsive ³ person offering the best price.	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.
Written Contract Required ⁴	No.	Yes.	Yes.
Maximum Contract Term ⁵	Three years, unless majority vote authorizes longer.		

4.2 Procuring Public Works (DPW) Construction Projects: M.G.L. c. 30, 39M (NON-Building Construction)

- Procurement of supplies and services that involve the construction, reconstruction, installation, demolition, maintenance or repair of a public work by a contractor.
- See definition of public works construction in Section 3.0 Overview.
- IFB (Invitation for Bid) procedures are required for services or services with supplies over \$10,000.
- Public works construction work estimated to cost between \$10,000- \$25,000 may follow M.G.L. 30B procedures (No bid deposit or Central Register listing is required).
- Contracts for public works services require the contractor to pay prevailing wage to their employees. The Town must provide the prevailing wage rates with the bid solicitation. Contact the Procurement officer for prevailing wage rates.

4.2.1 DPW Construction Projects between \$.01-\$9,999

For public works projects below \$10,000, no procurement is required. However, a written contract on the Town's standard contract form is required for public works projects over \$ 10,000. Contact the Procurement officer to issue a contract. The contract should be before any work is authorized, with the exception being an approved emergency,⁴ which would immediately follow with a contract at the earliest convenience.

Public works construction and supplies can be procured independently off of a State contract in any amount for all State Contracts with the exception of the Tradesperson State Contract: FAC70. Procurement of a tradesperson service with supply can only be procured from a State Contract vendor in an amount not to exceed \$10,000. The State Contract procurement of a tradesperson service & supplies in excess of \$10,000 will require the standard Invitation for Bid (IFB) process and requirements of public works procurement as defined by MGL 30, 39M.

4.2.2 DPW Construction Projects \$10,000 or More

The procurement of Public Works supplies and services costing \$10,000 or more will require the formal Invitation for Bid (IFB) process. The Procurement officer should be contacted to initiate an 'Invitation for Bid' (IFB) or a 'Request for Proposal' (RFP) to promote public invitation from vendors or contractors. It is the responsibility of each department to supply the Procurement Officer with complete specifications for the supply or service they are requesting.

Legal notices should be published once in a newspaper at least 2 weeks before the public bid or proposal deadline. A legal notice must be posted on the bulletin board at Town Hall and on the Town's website.

The Procurement Officer reviews the bids or proposals received for responsiveness ensuring they are complete and documentation of the requirements is provided. It is the responsibility of the department to confirm the content of bids and proposals to ensure that vendors are responsible. Bids are awarded to a responsible vendor that offers the lowest price. Proposals are awarded, to the responsible vendor that offers the most advantageous proposal as determined by a Town evaluation committee. The Department Head presents the award recommendation to the Procurement Officer, who in turn prepares the contract. Following the Awarding Authority approval a contract is awarded.

When a contract price total is available upon the award of an IFB or RFP contract, a purchase order requisition will be entered by the Department to encumber all funds upfront. Upon approval by the Chief Procurement Officer, the purchase order number should be provided to the vendor to be referenced on invoices they submit to the Town for payment. For contract awards when only unit pricing is available with a quantity yet to be determined, the purchase order requisition will be entered at the department level as supplies and services are procured.

Bid requirements for Public Works (M.G.L. c.30, 39M) construction over \$10,000:

1. Sealed Bid procedures (IFB)
2. Legal Notices at least 2 weeks before the bid deadline including: Newspaper listing, a posting on a municipal bulletin board and/or Town's website.
3. The employees of the contractor are required to have completed the State mandatory OSHA training. OSHA certificates should be provided with the bid documents.
4. A bid deposit in the amount of 5% must be provided with a bid

⁴ See Section 10.0 for a complete discussion of emergency procurements.

5. A 50% payment bond if the contract is over \$25,000 must be provided with the contract and before the service is rendered.
6. The Town must include in the bid specs the prevailing wage rates as provided by the Massachusetts Department of Labor.
7. A Certificate of Insurance naming the Town as insured shall be provided to the Town with coverage in the amounts as specified in the Town of Nantucket contract.
8. A Town of Nantucket Contract shall be completed prior to supplies and services being rendered, exception being an approved emergency which would follow with a contract at the earliest convenience.
9. Public Works Construction costing \$100,000 or more mandates a contract award to be a DCAM certified contractor.
10. Massachusetts Highway reimbursed contracts (Chapter 90) costing \$50,000 or more mandates a contract award to be a DCAM certified contractor.

4.2.3 Procuring Public Works under 30B §5 (\$10,000-\$24,999)

Public Works supplies and services costing between \$10,000 and \$25,000 can also be procured under 30B; the benefits include a waiver of the following requirements: No bid deposit is required. Reference the 30B chart found in 4.1.5

4.2.4 DCAM Procedure and Requirements

Public Works Construction costing \$100,000 or more mandates the implementation of DCAM procedures and award to a DCAM certified contractor. For Massachusetts Highway reimbursed contracts (Chapter 90) costing \$50,000 or more mandates a contract award to be a DCAM certified contractor.

4.2.5 Public Works Reference Chart

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

Estimated Contract Amount	\$10,000 and under		Over \$10,000	
		M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 ¹ Option	
Procurement Procedure	No.	Sealed bids.	Sealed bids.	
Advertising Required	No.	Advertise once in the <i>Central Register</i> ² and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> ² and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	
DCAMM Certification	No.	No.	No.	
OSHA Training	No.	No.	No.	
City/Town Prequalification	No.	No.	No.	
Filed Sub-bids	No.	No.	No.	
Bid Deposit	No.	5% of the value of the total bid.	No.	
Payment Bond	No.	No.	No.	
Performance Bond	No.	No.	No.	
Prevailing Wage	No.	No.	No.	
Award contract to:	No.	Lowest responsible and eligible bidder.	Lowest responsive and responsible bidder.	

¹ Authorized by M.G.L. c. 30, § 39M(d).

² M.G.L. c. 149, § 44J(a), M.G.L. c. 9, § 20A, and accompanying regulations require all contracts for construction services and all contracts for construction materials costing \$10,000 or more to be advertised in the *Central Register*.
 August 2014 revision

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

Estimated Contract Amount	\$10,000 and under	Over \$10,000 to \$25,000		Over \$25,000
		M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 Option ¹	M.G.L. c. 30, § 39M
Procurement Procedure	No.	Sealed bids.	Sealed bids.	Sealed bids.
Advertising Required	No.	Advertise once in the <i>Central Register</i> ² and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> ² and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> ² and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.
DCAMM Certification	No.	No.	No.	No.
OSHA Training	No.	Yes.	Yes.	Yes.
City/Town Prequalification	No.	No. ³	No.	No.
Filed Sub-bids	No.	No.	No.	No.
Bid Deposit	No.	5% of the value of the total bid.	No.	5% of the value of the total bid.
Payment Bond	No.	No.	No.	50% payment bond.
Performance Bond	No.	No.	No.	No.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.

¹ Authorized by M.G.L. c. 30, § 39M(d). Even though the M.G.L. c. 30B, § 5, threshold increased from \$25,000 to \$35,000 on July 1, 2014, M.G.L. c. 30, § 39M(d), applies to "any contract of not more than \$25,000." Therefore, you may only use M.G.L. c. 30B, § 5, for projects that cost \$10,000 but not more than \$25,000.

² M.G.L. c. 149, § 44J(a), M.G.L. c. 9, § 20A, and accompanying regulations require all contracts for construction services and all contracts for construction materials costing \$10,000 or more to be advertised in the *Central Register*.

³ Although M.G.L. c. 30, § 39M, does not mandate a contractor prequalification process, prequalification of bidders by the Massachusetts Department of Transportation is required for contracts of \$50,000 or more where the awarding authority receives State Aid funds under M.G.L. c. 90, § 34, or the work is on a state road, regardless of whether the awarding authority receives State Aid funds under M.G.L. c. 90, § 34.

4.3 Procuring Building Construction Services: M.G.L. c. 149

- Procurement of supplies and services that involve the construction, reconstruction, installation, demolition, maintenance or repair of a building by a contractor.
- IFB (Invitation for Bid) procedures are required for services and supplies over \$10,000.
- Contracts for construction services require the contractor to pay of prevailing wage to their employees. The Town must provide the prevailing wage rates with the bid solicitation.

4.3.1 Procuring Building Construction Services between \$.01-\$9,999

Procurement of building construction services estimated to cost between \$.01 and \$9,999.99 shall use "sound business practice".

The Town shall provide the prevailing wage rates to all contractors providing this work for the Town as required by the Massachusetts Department of Labor and Workforce Development.

Supplies and services can be procured independently off of a State contract in any amount for all State Contracts with the exception of the Tradesperson State Contract: FAC70. Procurement of a tradesperson service with supply can only be procured from a State Contract vendor in an amount not to exceed \$10,000. The State Contract procurement of a tradesperson service & supplies in excess of \$10,000 will require the standard Invitation for Bid (IFB) process and requirements of construction procurement as defined by MGL 149.

4.3.2 Procuring Building Construction Services between \$10,000-\$24,999

Procurement of building construction services estimated to cost between \$10,000 and \$24,999 will require at a minimum the solicitation of three (3) written quotes. The contract file must have documentation of all of the written quotes solicited. Legal notices must be published once in a local newspaper at least 2 weeks before the public bid deadline. A legal notice must be posted on a Town bulletin board at Town Hall and on the municipality website.

The Town shall include in the solicitation for quotes the prevailing wage rates.

Bid requirements for building construction (M.G.L. c.149) between \$10,000 to \$24,999:

- Solicit written responses
- Legal Notices in the Central Register at least 2 weeks before the bid deadline including: a posting on the bulletin board at Town Hall and on the Town website. (No newspaper ad is required)
- The employees of the contractor are required to have completed the State mandatory OSHA training. OSHA certificates should be provided upon request.
- The Town shall include in the bid specs the prevailing wage rates as provided by the Massachusetts Department of Labor.
- A Certificate of Insurance naming the Town as insured shall be provided to the Town with coverage in the amounts as specified in the Town of Nantucket contract.
- A Town of Nantucket Contract shall be completed prior to supplies and services being rendered, exception being an approved emergency which would follow with a contract at the earliest convenience.

4.3.3 Procuring Building Construction Services between \$25,000-\$99,999
Requirements for construction services (M.G.L. c. 149) between \$25,000 to \$99,999:

The procedures for public works construction projects apply. See Section 4.2.

4.3.4 Procuring Building Construction Services \$100,000 or More
Requirements for Construction Procurement (M.G.L. c. 149) over \$100,000:

- All requirements as specified between \$25,000 to \$99,999.
- Construction costing \$100,000 or more mandates a contract award to be a DCAM certified contractor.
- Filed Sub-bids are required for certain trades if over \$20,000 per trade.
- The payment bond requirement increases to 100% for construction contracts over \$100,000.
- A performance bond in the amount of 100% is required.
- DCAM will require the Town to evaluate contractor performance.

4.3.5 DCAM Procedures and Requirements

Construction/Facility improvements with a cost of \$100,000 or more will mandate the implementation of DCAM procedures and award of a contract to a DCAM certified contractor.

4.3.6 Use of State Contracts for Tradesperson- Repair and Maintenance ONLY

Rules and Terms as stated verbatim on www.CommBuys.com, **FAC70**, forms and terms, OSD:

How to use the contract:

This contract is a pre-qualified list of contractors. The contract is awarded statewide and regionally, using the five Mass Highway districts (a District list is posted on CommBuys under the Forms & Terms tab). To determine what services and districts each contractor covers, contract users should utilize the spreadsheet which is posted on CommBuys under the Forms & Terms tab of this contract. Contract users may sort the spreadsheet location or service for easier use. It is also broken down by major trades. When using the Excel Spreadsheet, contract users should scroll to the far right to view all services. Contractors are not required to work outside their normal geographic areas or perform services that are not in their normal scope of work.

This contract is for repair and maintenance services ONLY and DOES NOT COVER THE INSTALLATION OF NEW SYSTEMS (such as alarm systems, etc.).

This contract may not be used for any job with a value of \$10,000 or higher.

Currently the law is: **SECTION 11.** Section 44A of [Chapter 149](#) of the General Laws, (2)(A) *Every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost less than \$10,000 shall be awarded to the responsible person offering to perform the contract at the lowest price quotation; provided, however, that the public agency shall seek written price quotations from no fewer than 3 persons customarily providing the work for which the contract is being made available. When seeking written quotations the public agency shall make and keep a record of the names and addresses of all persons from whom price quotations were sought, the names of the persons submitting price quotations and the date and amount of each price quotation.*

Contractors will supply all labor, equipment, parts and supplies necessary to perform the needed services. Contractors are responsible for securing any and all necessary permits for the work to be performed.

Contractors must respond to contract users by phone within 24 hours of receipt of a call. Contractors are expected to schedule a site visit within 48 hours of the phone call. Quotes must be provided at no cost. Quotes must contain a good-faith estimate of any applicable travel charges. Charges that do not appear on the quote will not be allowed.

Contractors must adhere to all applicable Prevailing Wage laws and are required to submit Weekly Payroll Reports to the contract user. Prevailing Wage Rates for this contract are posted on CommBuys under the Forms and Terms tab of this contract. These rates will remain in effect for the life of the contract, including any renewals. Contractors must pay these rates to their workers.

4.3.7 Construction/Building Improvement Reference Chart

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

Estimated Contract Amount	Under \$10,000 ¹	\$10,000 to \$25,000	Over \$25,000 to \$100,000	Over \$100,000	Over \$10,000,000
Procurement Procedure	Sound business practices	Solicit written responses.	Sealed bids (using M.G.L. c. 30, § 39M procedure).	Sealed bids.	Solicit statements of qualifications prior to soliciting sealed bids.
Advertising Requirements	No.	Advertise in the <i>Central Register</i> and COMMBUYS and post a notice on your jurisdiction's website and in the office at least two weeks before responses are due. ²	Advertise in the <i>Central Register</i> and a newspaper at least two weeks before bids are due, and post a notice in your jurisdiction's office for at least one week before bids are due. ³ Posting on COMMBUYS or your website is optional.	Advertise in the <i>Central Register</i> and a newspaper at least two weeks before bids are due, and post a notice in your jurisdiction's office for at least one week before bids are due. ³ Posting on COMMBUYS or your website is optional.	Advertise the request for qualifications in the <i>Central Register</i> , a newspaper, and COMMBUYS at least two weeks before responses are due. ⁴
DCAMM Certification	No.	No.	No.	Required for general bidders and filed sub-bidders.	Required for general bidders and filed sub-bidders.
OSHA Training	No.	Yes.	Yes.	Yes.	Yes.
City/Town Prequalification	No.	No.	No.	Optional. ⁵	Yes.
Filed Sub-bids	No.	No.	No.	Yes (\$20,000 and over).	Yes (\$20,000 and over).
Bid Deposit	No.	No.	5% of the value of the total bid.	5% of the value of the total bid, or sub-bid.	5% of the value of the total bid, or sub-bid.
Payment Bond	No.	No.	50% payment bond.	100% payment bond.	100% payment bond.
Performance Bond	No.	No.	No.	100% performance bond.	100% performance bond.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.	Yes.
Contractor Evaluation	No.	No.	No.	Yes.	Yes.

¹ M.G.L. c. 149, § 44A(2)(A), as amended by Chapter 188 of the Acts of 2010.

² M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 188 of the Acts of 2010 and Section 16 of Chapter 409 of the Acts of 2010.

³ M.G.L. c. 149, § 44J.

⁴ The advertising procedures listed pertain only to the request for qualifications. Within 14 days of the completion of the prequalification evaluation process, you are required to post a notice in your jurisdiction and on COMMBUYS listing those general and subcontractors who have been prequalified. A copy of the notice must be sent via first class mail, postage pre-paid to all prequalified general and subcontractors along with an invitation to bid. The invitation to bid must have a deadline of at least two weeks. Although you may only consider bids from those general and subcontractors who have been prequalified, the advertising requirements for building construction contracts over \$100,000 apply.

⁵ If you decide to use the optional prequalification process for projects over \$100,000, follow the procedures listed in the "Over \$10,000,000" column.

GENERAL CONTRACTING PROCEDURES

5.0 INVITATION FOR BID (IFB) & REQUEST FOR PROPOSAL (RFP)

The Chief Procurement Officer develops the IFB or RFP and collaborates with Town department and schools in the development of specifications, minimum criteria, and evaluation criteria. The Chief Procurement Officer facilitates the development and receipt of bid or proposal packets and solicits interest in the procurement. Legal Notices are placed by the procurement officer who also serves as the vendor contact for any bid or proposal questions or issues.

The Procurement officer evaluates proposals and bids for responsiveness and ensures they meet the predetermined minimum criteria and provides documentation as requested. Bids and proposals that are deemed to be responsive are then provided to the appropriate Town department or school representative. Managers and department heads are expected to conduct reference checks and take notes on these checks as part of the selection process to assess performance, quality and timeliness of contractor's past work. Managers and Department Heads suggest the award of an Invitation for Bid to the lowest bidder that is deemed to be responsible following the department reference check.

The procedure for Request for Proposal (RFP) will also follow with managers or department heads completing reference checks to determine if vendor is responsible. Proposals that meet minimum criteria will then be ranked based on evaluation of the Technical Proposal and reference checks and ranked according to established evaluation criteria set forth in the proposal by a subcommittee. The subcommittee evaluating the RFP will suggest the award to the responsive bidder that is responsible and offers the most advantageous proposal taking into account qualifications and price. The subcommittee will make an award recommendation to the Chief Procurement Officer. Once an award is approved, the Chief Procurement officer will prepare a contract to be completed by all parties. Contract monitoring of invoices will follow the contract award.

6.0 FINALIZING THE CONTRACT

Once a contract award has been recommended and documented, the Procurement officer will prepare a contract and the contract will reference supporting contract specifications including the IFB or RFP packet, the successful bid or proposal documents, Price information, etc. Following the Department or School appropriation of funds, the contract is sent to the vendor to obtain the following: signatures, Social Security/Federal Tax ID, any required bonds, any required insurance, applicable certifications, etc. The contract is then forwarded to the Board of Selectmen and Finance Department or school for authorization.

Once the contract is complete the original is filed in the office of the Procurement officer, one copy to Finance and one copy is issued to the Department for them to copy and forward to the vendor.

Any vendor agreement or vendor contract presented by a vendor will require content review for compliance with Nantucket contract specifications. Prior to signing any vendor agreement or vendor contract, the content of the document will need approval from the Town of Nantucket's Legal Counsel.

6.1 Contract Award

Following the receipt of bids or proposals the Procurement officer will review them for responsiveness to ensure bids and proposals are complete and documentation is provided as requested. The Departments

will evaluate bids and proposals and perform reference checks to ensure an award to a vendor likely to be responsible.

6.2 Appropriation of Funds

The department head or School will provide the Procurement officer with a Munis Organization/Object number that will be utilized for the appropriation of funds for the products and/or services. The Town Accountant then confirms the availability of funds for the contract. No contract in excess of appropriated funds will be allowed.

6.3 Use of State Contracts

A list of Massachusetts State approved contracts can be obtained from the www.commbuys.com website. Supplies and services can be procured independently off of a State contract in any amount for all State Contracts, except for the Tradesperson contract where the limit is \$10,000.

6.4 Nantucket Contract Forms

The type of goods and services procured and the applicable law will determine which of the following contracts should be used. Contact the Procurement officer to initiate a contract.

Procurements not requiring a written contract:

The following procurements do not require a contract:

- Purchases obtained off of the Massachusetts State Contract vendor list found on the web site: www.commbuys.com are State pre-approved vendors with State contracts, so a Nantucket contract is not mandatory but is preferred

In the place of a contract, the requisition will require the documentation of the state contract that applies. Documentation should be made in the 'Notes' section in the requisition entry section of MUNIS when entering a requisition.

6.5 Multi Year Contracts

As authorized by Massachusetts General Laws, Chapter 30B, Section 12(b) contracts are not to exceed three (3) years unless a longer term is authorized under the Town Charter or bylaws, or town meeting has voted to authorize a longer term

7.0 MUNIS PURCHASING PROCEDURE

An online Munis requisition should be entered by Town department representatives for all purchases.

7.1 Munis Documentation of Quotes:

The department head or designated support staff will complete a requisition in Munis, the accounting software. The requisition should have documentation of Sound Business Practice, or the details of the solicitation of quotes, bids or proposals as specified depending on the various types of procurement (See section: 4.1.1 - 4.3.2).

7.2 Munis Appropriation of Funds for the Procurement:

The department head is accountable for the complete appropriation of funds at the time of requisition entry and the availability of funds accordingly. No payment or contract will be awarded in excess of any

appropriation without a written addendum from a manager/department head where additional funds will be appropriated.

Electronic requisitions when released by the officer or department head follow through a series of on-line approval levels for review including the department head, the Procurement officer, the Business Manager for school procurement, and from the Finance Department.

7.3 Munis Procedure for IFB/RFP Contracts

The award of an IFB or RFP contract when a contract price total is available will be entered by the Procurement officer to encumber all funds upfront. The purchase order should be provided to the vendor to be referenced on invoices they submit to the Town for payment. For contract awards when only unit pricing is available with quantity to be determined will be entered with an estimated total on a blanket PO.

8.0 ANNUAL / REVOLVING CONTRACTS

A list of capital projects and annual/revolving contracts where the procurement specifications or value mandates an IFB or RFP process is available upon request to the Finance Department.

9.0 SOLE-SOURCE PROCUREMENT

A "sole-source" procurement is a purchase of supplies or services without advertising or competition. Chapter 30B places strict limitations on sole-source procurements.⁵

Only the Procurement Officer can determine in writing if you are eligible for sole-source procurement. Keep records of every sole source procurement, specify the contractor's name, amount and type of contract award, a listing of the supplies or services procured, and the basis for the determination that there was only one practical source for the purchase. Document the reasoning for sole-source procurement. A contract must still be in place if the purchase is over \$ 10,000.

9.1 Sole-Source Contracts under \$35,000

Sole source procurements under \$35,000 may be made when a reasonable investigation shows that there is only one practical source for the required supply or service. The determination that only one practical source exists must be documented and approved in writing by the Chief Procurement Officer.

9.2 Sole-Source Contracts \$35,000 or More

A sole source procurement of \$35,000 or more may not be made. The only exception is the procurement of software maintenance, library books, educational materials and regulated utilities).

10.0 EMERGENCY PROCUREMENT

If the health or safety of people or property is endangered due to an unforeseen emergency, the procurement process may be expedited but only to the extent necessary caused by the emergency. Records must be maintained documenting the basis for determination that an emergency exists, the name of the vendor, the amount and type of contract and a list of the supplies or services purchased under each contract. An emergency that occurs as a result of a known circumstance involving delayed corrective planning or proactive action cannot be justified and qualify as an Emergency Procurement.

⁵ Receiving one response when soliciting quotes or issuing an RFO or an RFP is not the same as making sole-source procurement.

Emergency procurement for Chapter 30B (supplies & services): The procurement must comply to the fullest extent possible with MGL 30B procedures. The public notification requirement may be shortened. At a minimum three quotes should be obtained whenever possible. A written description of the nature of the emergency and the procurement procedures followed must be included in the procurement file. A copy of the emergency declaration must be submitted to the Secretary of State for publication in the Goods and Services Bulletin as soon as practicable.

Emergency procurement for construction, MGL c.149: In qualifying emergency situations certain public construction procurement laws may be waived under MGL c. 149, Section 44(A)(4) or the advertising requirement may be waived under MGL c. 149, Section 44(J)(6). In order to implement these waivers written authorization must be obtained from the Division of Capital Asset Management (DCAM), and the Town is required to follow the procedures outlined by DCAM. Even though an emergency waiver may be granted, the Town is still responsible for enforcing the requirements of prevailing wage, bonding and DCAM contractor certification is required for emergencies estimated to cost \$100,000 or more. .

Emergency procurement for public works, MGL 30,39M: A written waiver of the public notice requirements from DCAM must be requested and obtained [MGL c. 149, Section 44J (6)]. Quotes must be solicited.

11.0 DISPOSITION OF SURPLUS PROPERTY

In accordance with the Nantucket Bylaw: 38-2 Disposition, prior authorization is required for the disposition of excess or surplus property. The policy for the disposition of personal property is provided:

Nantucket By-Law, 38-2: Obsolete Town Equipment

The Selectmen are authorized to dispose of obsolete or surplus Town equipment worth more than \$5000 by putting it up for bid without the necessity of a Town Meeting vote. Obsolete or surplus equipment with a value of less than \$500 shall be disposed of by advertisement and sale on a "first come" basis, yard sale or delivery to the Town sanitary solid waste facility, as the Town Manager deems appropriate. Surplus equipment worth more than \$25,000 shall require a Town Meeting vote for disposal. There are additional procedures applicable to the disposition of tangible supplies set forth in G.L. c. 30B, Sec. 15.

12.0 PREVAILING WAGE

The Town is required to comply with the Massachusetts Prevailing Wage Law for all public works and public building projects regardless of the cost of the contract. For example, the repair of a sewer pipe estimated to cost \$3,000 requires the payment of prevailing wages. Any request for quotes must include the prevailing wage sheets issued by the Massachusetts Department of Labor. In addition, whenever the Town hires a vehicle in the performance of a public work, the contractor must pay prevailing wages. See G.L. c. 149, Sec. 27.

12.1 Blanket Wage Rates for Smaller Projects (under \$10,000)

A blanket period wage sheet is available for work not associated with larger planned projects. For example, a municipality should be able to quickly provide prevailing wage rates to have a broken window repaired without having a delay. For this reason the following period wage sheet is issued for small and/or emergency repairs. For larger projects and planned capital improvements, customized prevailing wage sheets should be obtained.

The current prevailing wage sheet can be obtained by contacting the Procurement Officer.

12.2 How to Order Prevailing Wage Rates

Provide the following information to the Procurement officer and the wage rates will be ordered: project name, description of project, project location, estimated cost and estimated completion date.

If a project is estimated to take more than one year, the Town is legally required to request updated prevailing wage rates.

12.3 When Required for Building & Public Works Projects

Prevailing Wages must be paid to all persons employed on the public works project, regardless of whether they are employed by the successful bidder or a subcontractor. The wage rates issued for each project shall be paid for the entire project.

Payroll records must be kept by the successful bidder for all persons employed on the project. A separate Statement of Compliance must be submitted to the Division of Occupational Safety by every employer, including all prime contractors and subcontractors, when its portion of the work is completed. The form entitled "Weekly Payroll Records Report and Statement of Compliance" clearly details these requirements. When in doubt check with the Division of Occupational Safety for their opinion.

12.4 When Required for the Hiring of a Vehicle in the Performance of a Public Work

Prevailing wages must be paid by any Contractor utilizing a vehicle in the performance of a public work on behalf of the Town. Examples include a solid waste collection contract, the hiring of a backhoe or other piece of equipment for normal storm drain maintenance, or the operation of equipment vehicles by the water and sewer department or the landfill.

13.0 CONTRACT EXCEPTIONS AND EXEMPTIONS

13.1 Contract Exceptions

A Nantucket contract is not required for procurement with the use of an approved Massachusetts State contract vendor since a contract is already in place with the State of Massachusetts. However, consideration should be taken into account for the complexity of the procurement and a contract should be administered accordingly.

13.2 Real Estate Transaction

The acquisition or disposal of an interest in real property when the value of the interest exceeds \$35,000 is subject to a competitive procurement process under MGL 30B, sec. 16. There are many important considerations and procedures involved with real estate transactions, and no department may proceed with a real estate transaction without first seeking the guidance of the Chief Procurement Officer.

13.3 Contract Exemptions

The Town is not legally required to follow the bidding procedures for certain contracts that are expressly exempt from bidding under MGL 30B, sec. 1. A written contract is still required for any procurement costing more than \$ 10,000, and departments are encouraged to seek competitive bids or proposals for exempt supplies and services if doing so is likely to be in the best interests of the Town. No department may proceed with the procurement of an exempt supply or service without the prior written approval of the Chief Procurement Officer.

14.0 CHARTS & FORMS



THE 188TH GENERAL COURT OF
THE COMMONWEALTH OF MASSACHUSETTS

Home Glossary FAQs

 Options

[Massachusetts Laws](#) | [Bills](#) | [State Budget](#) | [People](#) | [Committees](#) | [Educate & Engage](#) | [Events](#) | [MyLegislature](#)

Massachusetts Laws

- [Massachusetts Constitution](#)
- [General Laws](#)
- [Session Laws](#)
- [Rules](#)

General Laws

[Print Page](#)

PART I	ADMINISTRATION OF THE GOVERNMENT	NEXT
TITLE III	LAWS RELATING TO STATE OFFICERS	PREV NEXT
CHAPTER 30B	UNIFORM PROCUREMENT ACT	PREV
Section 1	Application of chapter	NEXT

Section 1. (a) This chapter shall apply to every contract for the procurement of supplies, services or real property and for disposing of supplies or real property by a governmental body as defined herein.

(b) This chapter shall not apply to:

- (1) a contract subject to the provisions of section thirty-nine M of chapter thirty, section 11C or section 11I of chapter 25A or sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine;
- (2) a contract subject to the provisions of sections thirty-eight A1/2 to thirty-eight O, inclusive, of chapter seven;
- (3) an intergovernmental agreement subject to the provisions of section four A of chapter forty;
- (4) a transaction with the commonwealth, except as pertains to subsection (I) of section 16;
- (5) a contract for the purchase of materials, under specifications of the state department of highways, and at prices established by the department, pursuant to advertising and bidding for such purpose, in connection with work to be performed under the provisions of chapter eighty-one or chapter ninety;
- (6) a contract for the advertising of required notices;
- (7) an agreement between agencies, boards, commissions, authorities, departments or public instrumentalities of one city or town;
- (8) an agreement for the provision of special education pursuant to chapter seventy-one B and regulations promulgated pursuant thereto;

(9) a contract to purchase supplies or services from, or to dispose of supplies to, any agency or instrumentality of the federal government, the commonwealth or any of its political subdivisions or any other state or political subdivision thereof;

(10) the issuance of bonds, notes or securities in accordance with procedures established by law;

(11) contracts and investments made in accordance with sections fifty-seven or fifty-seven A of chapter thirty-five or sections sixty-seven or sixty-seven A of chapter forty-four;

(12) a contract for the procurement of insurance or surety bonds, including an agreement subject to the provisions of sections one to sixteen, inclusive, of chapter forty M or the provisions of sections twenty-five E to twenty-five U, inclusive, of chapter one hundred and fifty-two;

(13) contracts for the services of expert witnesses for use in an adjudicatory proceeding or litigation or in anticipation thereof;

(14) any contracts or agreements entered into by a municipal gas or electric department governed by a municipal light board, as defined by section fifty-five of chapter one hundred and sixty-four or by a municipal light commission, as defined by section fifty-six A of said chapter one hundred and sixty-four; provided, however, that any such board or commission may accept the provisions of this chapter by a majority vote of its members;

(15) contracts with labor relations representatives, lawyers, or certified public accountants;

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

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

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

(19) a contract for retirement board services; provided, however, that the procurements shall take place under section 23B of chapter 32;

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

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

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

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

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

(25) a contract to sell lease or acquire residential, institutional, industrial or commercial real property by a public or quasi-public economic development agency or urban renewal agency

engaged in the development and disposition of said real property in accordance with a plan approved by the appropriate authorizing authority;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Show/Hide Site Map](#)

[Mass.gov](#) | [Site Map](#) | [Site Policy](#) | [Webmaster](#)

Copyright © 2014 The General Court, All Rights Reserved



**Request for Quotes
For Goods or Services
More Than \$10,000 but Less Than \$35,000**

Step 1: Specifically describe the goods or service you want to purchase. Include as part of your description a date by which the product must be delivered or service must be performed.

Step 2: Solicit a minimum of three (3) oral or written quotes (by phone, fax, letter or email). Record the names and addresses of all persons/companies that you contact. Record the amount of each quote that you receive. Be sure that the vendor giving you the quote can provide the product or service by your stated delivery date.

Step 3: Award the quote to the responsible and responsive vendor offering the lowest price.

.....

Date: _____

Department: _____

Item or Service Description: (be specific, include delivery date)

	Quote Amount
Company: _____ Address: _____ Contact Name: _____ Telephone: _____ Comments: _____ Fax: _____	
Company: _____ Address: _____ Contact Name: _____ Telephone: _____ Comments: _____ Fax: _____	
Company: _____ Address: _____ Contact Name: _____ Telephone: _____ Comments: _____ Fax: _____	

Submit this form and any pertinent attachments to the Finance Department when you are processing your invoice.

CONTRACT CHECKLIST

Was the proper Procurement done in accordance with the attached matrix?

Yes No

According to the attached matrix, what law is this being contracted under? _____

Did you include the Prevailing Wage rates into the contract?

Yes No Not applicable

Have you obtained the OSHA training cards for all employees who will be working on the project?

Yes No Not applicable

Have you obtained the proper insurances from the vendor/contractor in accordance with the contract language?

Yes No

Have you obtained the signed Bond's from the contractor in accordance with the bid laws?

Yes No Not applicable

Has the contract been signed the vendor/contractor?

Yes No Not applicable

Is the contract within the three year maximum contract term?

Yes No

Is the contract funding been identified and is it available?

Yes No

Department Manager

Chief Procurement Officer



GLENN A. CUNHA
INSPECTOR GENERAL

The Commonwealth of Massachusetts

Office of the Inspector General

John W. McCormack
State Office Building
One Ashburton Place
Room 1311
Boston, MA 02108
Tel: (617) 727-9140
Fax: (617) 723-2334

August 2014

Dear Local Official:

The following charts were created by the Office of the Inspector General for local officials to use as a quick reference guide on public procurement procedures that must be followed pursuant to the Massachusetts General Laws. Your local rules may establish stricter or additional requirements that you must follow. Contact your chief procurement officer (CPO) or legal counsel for advice on your local rules and procurement procedures.

The charts highlight particular compliance requirements depending on the cost or the nature of your procurement. For example, the charts highlight, where applicable, the requirement for a ten-hour course in construction safety and health approved by the United States Occupational Safety and Health Administration (OSHA). Pursuant to M.G.L. c. 30, § 39S, any person submitting a bid for, or signing a contract to work on, a public building or public works project estimated to cost more than \$10,000, must certify under the pains and penalties of perjury that he or she is able to furnish labor in harmony with all other elements of labor employed in the work and that all employees employed on the worksite, or in work subject to the bid, have successfully completed at least ten hours of OSHA approved training. The charts are meant to provide a general overview of the principal public procurement statutes, and are not a substitute for consultation of the statute or the advice of legal counsel.

The charts include:

- M.G.L. c. 149 -- BUILDING CONSTRUCTION CONTRACTS [CORRECTED Aug. 8, 2014]¹
- M.G.L. c. 30, § 39M -- 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 (formerly M.G.L. c. 7, §§ 38A½-O) -- PUBLIC BUILDING PROJECTS DESIGN SERVICES -- Cities, Towns, Regional School Districts, and Horace Mann Charter Schools
- M.G.L. c. 30B PROCUREMENT OF SUPPLIES AND SERVICES [UPDATED July 15, 2014]²

Any suggestions for the charts or questions concerning M.G.L. c. 30B may be directed to this Office by calling 617.722.8838. Questions concerning M.G.L. c. 149, M.G.L. c. 30, § 39M, and M.G.L. c. 7C may be directed to the Office of the Attorney General by calling 617.727.2200 or your legal counsel.

¹ The chart has been corrected relative to the advertising requirements for building construction contracts estimated to cost \$10,000 to \$25,000. The corrections are in accordance with M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 188 of the Acts of 2010 and Section 16 of Chapter 409 of the Acts of 2010.

² With the passage of the FY 2015 Budget, new Chapter 30B thresholds are in effect as of July 1, 2014. Chapter 30B sections 4, 5, 6, 6A, 7 and 16 were amended. The amendments replaced the \$25,000 thresholds with \$35,000 thresholds in these sections only. No other changes were made.

Procurement Charts
Cover Letter
August 2014
Page 2

Prevailing wage rate sheets may be requested online at <http://www.mass.gov/lwd/labor-standards/prevailing-wage-program/> or by calling the Department of Labor Standards at 617.626.6975.

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

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

Sincerely,



Glenn A. Cunha
Inspector General

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

Estimated Contract Amount	Under \$10,000 ¹	\$10,000 to \$25,000	Over \$25,000 to \$100,000	Over \$100,000	Over \$10,000,000
Procurement Procedure	Sound business practices	Solicit written responses.	Sealed bids (using M.G.L. c. 30, § 39M procedure).	Sealed bids.	Solicit statements of qualifications prior to soliciting sealed bids.
Advertising Requirements	No.	Advertise in the <i>Central Register</i> and COMMBUYS and post a notice on your jurisdiction's website and in the office at least two weeks before responses are due. ²	Advertise in the <i>Central Register</i> and a newspaper at least two weeks before bids are due, and post a notice in your jurisdiction's office for at least one week before bids are due. ³ Posting on COMMBUYS or your website is optional.	Advertise in the <i>Central Register</i> and a newspaper at least two weeks before bids are due, and post a notice in your jurisdiction's office for at least one week before bids are due. ³ Posting on COMMBUYS or your website is optional.	Advertise the request for qualifications in the <i>Central Register</i> , a newspaper, and COMMBUYS at least two weeks before responses are due. ⁴
DCAMM Certification	No.	No.	No.	Required for general bidders and filed sub-bidders.	Required for general bidders and filed sub-bidders.
OSHA Training	No.	Yes.	Yes.	Yes.	Yes.
City/Town Prequalification	No.	No.	No.	Optional. ⁵	Yes.
Filed Sub-bids	No.	No.	No.	Yes (\$20,000 and over).	Yes (\$20,000 and over).
Bid Deposit	No.	No.	5% of the value of the total bid.	5% of the value of the total bid, or sub-bid.	5% of the value of the total bid, or sub-bid.
Payment Bond	No.	No.	50% payment bond.	100% payment bond.	100% payment bond.
Performance Bond	No.	No.	No.	100% performance bond.	100% performance bond.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.	Yes.
Contractor Evaluation	No.	No.	No.	Yes.	Yes.

¹ M.G.L. c. 149, § 44A(2)(A), as amended by Chapter 188 of the Acts of 2010.

² M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 188 of the Acts of 2010 and Section 16 of Chapter 409 of the Acts of 2010.

³ M.G.L. c. 149, § 44J.

⁴ The advertising procedures listed pertain only to the request for qualifications. Within 14 days of the completion of the prequalification evaluation process, you are required to post a notice in your jurisdiction and on COMMBUYS listing those general and subcontractors who have been prequalified. A copy of the notice must be sent via first class mail, postage pre-paid to all prequalified general and subcontractors along with an invitation to bid. The invitation to bid must have a deadline of at least two weeks. Although you may only consider bids from those general and subcontractors who have been prequalified, the advertising requirements for building construction contracts over \$100,000 apply.

⁵ If you decide to use the optional prequalification process for projects over \$100,000, follow the procedures listed in the "Over \$10,000,000" column.

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

Estimated Contract Amount	\$10,000 and under	Over \$10,000 to \$25,000		Over \$25,000
		M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 Option ¹	M.G.L. c. 30, § 39M
Procurement Procedure	No.	Sealed bids.	Sealed bids.	Sealed bids.
Advertising Required	No.	Advertise once in the <i>Central Register</i> ² and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> ³ and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> ² and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.
DCAMM Certification	No.	No.	No.	No.
OSHA Training	No.	Yes.	Yes.	Yes.
City/Town Prequalification	No.	No. ³	No.	No.
Filed Sub-bids	No.	No.	No.	No.
Bid Deposit	No.	5% of the value of the total bid.	No.	5% of the value of the total bid.
Payment Bond	No.	No.	No.	50% payment bond.
Performance Bond	No.	No.	No.	No.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.

¹ Authorized by M.G.L. c. 30, § 39M(d). Even though the M.G.L. c. 30B, § 5, threshold increased from \$25,000 to \$35,000 on July 1, 2014, M.G.L. c. 30, § 39M(d), applies to "any contract of not more than \$25,000." Therefore, you may only use M.G.L. c. 30B, § 5, for projects that cost \$10,000 but not more than \$25,000.

² M.G.L. c. 149, § 44J(a), M.G.L. c. 9, § 20A, and accompanying regulations require all contracts for construction services and all contracts for construction materials costing \$10,000 or more to be advertised in the *Central Register*.

³ Although M.G.L. c. 30, § 39M, does not mandate a contractor prequalification process, prequalification of bidders by the Massachusetts Department of Transportation is required for contracts of \$50,000 or more where the awarding authority receives State Aid funds under M.G.L. c. 90, § 34, or the work is on a state road, regardless of whether the awarding authority receives State Aid funds under M.G.L. c. 90, § 34.

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

Estimated Contract Amount	S10,000 and under		Over S10,000	
			M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5' Option
Procurement Procedure	No.		Sealed bids.	Sealed bids.
Advertising Required	No.		Advertise once in the <i>Central Register</i> ² and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> ² and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.
DCAMM Certification	No.		No.	No.
OSHA Training	No.		No.	No.
City/Town Prequalification	No.		No.	No.
Filed Sub-bids	No.		No.	No.
Bid Deposit	No.		5% of the value of the total bid.	No.
Payment Bond	No.		No.	No.
Performance Bond	No.		No.	No.
Prevailing Wage	No.		No.	No.
Award contract to:	No.		Lowest responsible and eligible bidder.	Lowest responsive and responsible bidder.

¹ Authorized by M.G.L. c. 30, § 39M(d).

² M.G.L. c. 149, § 44J(a), M.G.L. c. 9, § 20A, and accompanying regulations require all contracts for construction services and all contracts for construction materials costing \$10,000 or more to be advertised in the *Central Register*.

M.G.L. c. 7C, §§ 44-57, PUBLIC BUILDING PROJECTS DESIGN SERVICES -- Cities, Towns, Regional School Districts, and Horace Mann Charter Schools¹

Estimated Construction Cost (ECC)/Estimated Design Fee (EDF)	ECC \$100,000 or less or EDF less than \$10,000	ECC more than \$100,000 and EDF \$10,000 or more (both ECC and EDF thresholds must be met before the designer selection procedure is required.) ⁴
Procurement Procedure	No. Recommend soliciting qualifications and prices from at least three designers.	Qualifications-based selection process. Jurisdiction must either set the design fee or set a not-to-exceed fee limit and negotiate the fee with the top-ranked designer within the fee limit.
Advertising Required	No.	Advertise once in the <i>Central Register</i> and your local newspaper at least two weeks before the deadline for filing applications.
Designer Selection Board ¹	No.	No – adopt selection procedure in writing. ^{2,3} Use “DSB Application for Municipalities.”
Designer Evaluation (Submit to DCAMM and Designer Selection Board)	No.	Yes.
Registration	Yes.	Yes.
Insurance	No.	10% of the total cost of the project or \$1 million, whichever is less.
Prevailing Wage	No.	No.

⁴As of December 2008, the Designer Selection Board revised its “Guidelines for City and Town Building Projects” to clarify that both thresholds must be met.

¹ Executive Departments of the Commonwealth and Commonwealth Charter Schools are subject to the jurisdiction of the Designer Selection Board when the design fee is \$10,000 or more and the construction project is estimated to cost \$100,000 or more.

² Cities, Towns, School Districts, and Horace Mann Charter Schools are required to adopt their own procedures for selecting designers for building projects. These procedures must conform to the purposes and intent of the designer selection process as outlined in M.G.L. c. 7C, §§ 44-57 and noted herein. See the *Model Designer Selection Procedures for Municipalities and Other Local Public Agencies* developed by this office at <http://www.mass.gov/ig/publications/guides-advisorics-other-publications/model-designer-selection-procedures-municipalities-and-other-local-public-agencies-nov-2009.html>.

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

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

Estimated Contract Amount	Under \$10,000	\$10,000 to \$34,999	\$35,000 and over
Procurement Procedure	Sound business practices. ¹	Solicit three written or oral quotes.	Sealed bids or proposals. (M.G.L. c. 30B, §§ 5 or 6).
Advertising Required	No.	No.	Advertise once in a newspaper of general circulation at least two weeks before bids or proposals are due, and post a notice on your jurisdiction's bulletin board or website for two weeks before bids or proposals are due. If \$100,000 or more, advertise once in the <i>Goods and Services Bulletin</i> at least two weeks before bids or proposals are due.
Award contract to:	Person offering the best price.	Responsible ² and responsive ³ person offering the best price.	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.
Written Contract Required⁴	No.	Yes.	Yes.
Maximum Contract Term⁵	Three years, unless majority vote authorizes longer.		

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

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

³ M.G.L. c. 30B, § 2, defines a responsive bidder or offeror as “a person who has submitted a bid or proposal which conforms in all respects to the invitation for bids or request for proposals.”

⁴ M.G.L. c. 30B, § 17(a), states “All contracts in the amount of \$10,000 or more shall be in writing, and the governmental body shall make no payment for a supply or service rendered prior to the execution of such contract.”

⁵ M.G.L. c. 30B, § 12(b), states “Unless authorized by majority vote, a procurement officer shall not award a contract for a term exceeding three years, including any renewal, extension, or option.”

WEEKLY PAYROLL RECORDS REPORT & STATEMENT OF COMPLIANCE

In accordance with Massachusetts General Law c. 149, §27B, a true and accurate record must be kept of all persons employed on the public works project for which the enclosed rates have been provided. A Payroll Form has been printed on the reverse of this page and includes all the information required to be kept by law. Every contractor or subcontractor is required to keep these records and preserve them for a period of three years from the date of completion of the contract.

In addition, every contractor and subcontractor is required to submit a copy of their weekly payroll records to the awarding authority. For every week in which an apprentice is employed, a photocopy of the apprentice's identification card must be attached to the payroll report. Once collected, the awarding authority is also required to preserve those records for three years.

In addition, each such contractor, subcontractor, or public body shall furnish to the awarding authority directly, within fifteen days after completion of its portion of the work a statement, executed by the contractor, subcontractor or public body who supervises the payment of wages, in the following form:

STATEMENT OF COMPLIANCE	
_____ , 20_____	
I, _____	_____
(Name of signatory party)	(Title)
do hereby state:	
That I pay or supervise the payment of the persons employed by	
_____	_____
(Contractor, subcontractor or public body)	(Building or project)
and that all mechanics and apprentices, teamsters, chauffeurs and laborers employed on said project have been paid in accordance with wages determined under the provisions of sections twenty-six and twenty-seven of chapter one hundred and forty nine of the General Laws.	
Signature _____	
Title _____	

