

Guidelines for Vendors and Contractors

- **Policies and Procedures**
- **Legal Requirements**
- **Sources of Information**



City of Fitchburg
Procurement Department

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OBJECTIVE AND AUTHORITY

The goal of this manual is to provide a reference tool for vendors and contractors to understand how the Procurement Department makes decisions and ensures that all procurements comply with general law, local ordinances, and best purchasing practices. The City views the relationships with its vendors, suppliers, and contractors as a business partnership where all parties are expected to coordinate and combine talents, ideas and actions in order to produce superior results for the citizens and taxpayers of the City of Fitchburg.

We are committed to increasing business opportunities for vendors and contractors to work with us by providing a fair, open, and transparent participation process and engaging in a variety of vendor development and outreach activities to promote inclusion and to expand our vendor database.

The Chief Procurement Officer (CPO) is designated by City Ordinance to maintain a centralized purchasing function. All departments follow the purchasing regulations outlined in this document and are subject to the Commonwealth's procurement laws.

The Mayor is the only person authorized to execute a contract on behalf of the City. Service agreements, construction contracts, contracts for goods/services, lease or purchase of equipment, and any document containing terms and conditions, must be signed by the Mayor or will be considered non-binding.

PROCUREMENT LAWS THRESHOLDS AND STANDARDS

PREVAILING WAGES: MGL c. 149, §27

The City is required to comply with the Massachusetts Prevailing Wage Law for all public works and public building projects regardless of cost of the contract.

Prevailing Wages must be paid to all persons employed on the project, regardless of whether they are employed by the contractor or subcontractor. The rates issues for a particular project must be paid for that entire project. For multi-year contracts, the CPO will provide new wage rates as required annually.

Associated Certified Payroll Reports and Statements of Compliance shall be provided to the Contract Manager in compliance with the law.

CHAPTER 30B (Supplies and Services)

Massachusetts General Law, c. 30B applies to the procurement of all supplies, services, disposition of surplus supplies, and acquisition or disposition of real property.

Procurements estimated to cost less than \$10,000

Procurement of supplies and services estimated to cost less than \$10,000 is generally conducted using "sound business practices."

Procurements estimated to cost between \$10,000 and \$50,000

Procurement of supplies and services estimated to cost between \$10,000 and \$50,000 requires the solicitation of at least three (3) written quotes. Quote requests will be made in writing and provided to potential vendors.

Procurements estimated to cost between \$50,000 and \$100,000

An “Invitation for Bid” (“IFB”) or a “Request for Proposals” (“RFP”) is required for procurements estimated to cost \$50,000 or more. An IFB is used for goods and services where award to the bidder offering the lowest price is preferred. An RFP is used when factors other than price will be considered, and a method is needed to award a proposal based on merit, before considering price.

Collective and Collaborative Purchasing Opportunities

Certain types of collective purchases are allowed under c. 30B. The contracts resulting from these contracts comply with c. 30B and may be used without following a local quote or bid process. In all cases, the Chief Procurement Officer shall determine applicability of a contract.

A description of some accepted alternative contracts follows:

COMMBUYS – The Commonwealth’s Operation Services Division (OSD)

MHEC – The Massachusetts Higher Education Consortium (MHEC)

MAPC – The Metropolitan Area Planning Council (MAPC)

Plymouth County Commissioners –The City maintains a membership with the Plymouth County Commissioners.

Greater Boston Police Council –The City maintains a membership with the Greater Boston Police Council.

GSA – Government Services Agency

Houston Galveston Cooperative (H-GAC) – The H-GAC program

Other Cooperative and Collaborative Contracts – The Chief Procurement Officer shall determine eligibility to utilize any other contracts.

CHAPTER 7C, §44-57 (Design Services)

Procurement of design services (architect/engineer, etc.) in connection with a public building project are subject to the Designer Selection Law. Design services connected to a public works construction project are exempt from bidding requirements as long as the City hires a designer fitting the definition contained in c. 30B, §2.

There is no formal procurement procedure for a design with an estimated construction cost less than \$300,000 or design fee less than \$30,000, but the City may opt to receive qualifications/pricing from design firms.

Design projects where the estimated construction cost will be more than \$300,000 and the design fee will cost more than \$30,000 are subject to a qualifications based process using the City’s “Designer Selection Procedures.”

CHAPTER 149 (Building Construction)

Procurement of a contractor for construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency is subject to the provisions of c. 149, including the provisions for filed sub-bids within certain monetary thresholds. This work is typically defined as “vertical construction.”

There has been much discussion about what defines a “building,” and case law has interpreted that to be any “structure with walls and a roof.” Any time you are physically making a change to any structural component of a building - that is considered a building contract.

Procurements estimated to cost less than \$10,000

Procurement of public building construction estimated to cost less than \$10,000 is conducted using “sound business practices.”

Contracts under this section are subject to the Prevailing Wage Law from dollar one.

Procurements estimated to cost between \$10,000 and \$50,000

Procurement of building construction contracts estimated to cost between \$10,000 and \$50,000 requires solicitation of at least three (3) written quotes. Quote requests must be made and received in writing.

Proof of OSHA training must be provided prior to execution of a contract.

Prevailing Wages are mandatory.

Building construction procurements under \$50,000 may also be made using a State Contract procured by OSD, or a Blanket Contract procured by the City.

Procurements estimated to cost between \$50,000 and \$150,000

Procurement of public building construction contracts estimated to cost between \$50,000 and \$150,000 requires a sealed bid process.

Proof of OSHA training must be provided prior to execution of a contract, as well as a payment bond of fifty percent (50%) of the total contract price.

Prevailing Wages are mandatory.

Procurements estimated to cost \$150,000 or more

In addition to the requirements above, a solicitation where the estimated cost is over \$150,000 requires DCAMM certification for the general contractor and any sub-contractors. A payment bond of one hundred percent (100%) and a performance bond of one hundred percent (100%) are required.

Filed sub-bids are required for any trade within the construction contract where the estimated cost for the trade work will be twenty thousand dollars (\$25,000) or more.

For building contracts costing over \$150,000 there is a mandatory DCAMM evaluation process.

Procurements estimated to cost \$10 million or more

In addition to the standards above, a solicitation where the estimated cost is over \$10 million requires a prequalification procedure for both general contractors and sub-bidders before the actual bidding process takes place; the bidding process is then restricted to only those who have been approved in the prequalification process.

CHAPTER 30, §39M (Public Works Construction and Construction Materials)

Procurement of a contractor for construction, reconstruction, alteration, remodeling or repair of any public work, or for the purchase of any material so related, is subject to the provisions of this chapter.

This work is typically defined as “horizontal construction.” It includes construction and repair of road and bridges, water mains and sewers, improvements to public parking lots, parks, cemeteries, athletic fields and swimming pools. Any time there is “movement of earth” the work being performed is considered construction.

An exception to the “building” definition above, buildings which serve the sole function of housing pumps and related equipment for water or sewer service are considered a “public work” facility and are subject to c. 30, § 39M rather than c. 149.

Procurement of construction materials for public buildings or public works is governed by this chapter. Construction materials is defined as any supplies or materials that will be utilized specifically by a contractor or public employee while performing a building or public works project.

Procurements estimated to cost less than \$10,000

Procurement of public works construction estimated to cost less than \$10,000 is conducted using “sound business practices.”

Contracts under this section are subject to the Prevailing Wage Law from dollar one.

Procurements estimated to cost between \$10,000 and \$50,000

Procurement of public works construction contracts estimated to cost between \$10,000 and \$50,000 requires the solicitation of at least three (3) written quotes from potential contractors. Quote requests must be in written form and well-communicated to each potential vendor.

Proof of OSHA training must be provided prior to execution of a contract.

Prevailing Wages are mandatory.

Building construction procurements under \$50,000 may also be made using a State Contract procured by OSD, or a Blanket Contract procured by the City.

Procurements estimated to cost more than \$50,000

Procurement of public works construction contracts estimated to cost more than \$50,000 requires a sealed bid process.

Proof of OSHA training must be provided prior to execution of a contract, as well as a payment bond of fifty percent (50%) of the total contract price.

Prevailing Wages are mandatory.

MassDOT Prequalification

Prequalification of bidders by MassDOT is required for contracts of \$50,000 or more if the City is to receive c.90 funding, or if the work will be performed on a state road, regardless of whether the City receives state funds.

ENERGY CONSERVATION PROJECTS: MGL c. 25A, §14

Procurement of a contractor for energy conservation projects costing less than \$300,000 is subject to the provisions of this chapter. This work typically includes energy conserving measures such as caulking, weather-stripping, insulation, energy control systems, ventilating systems, plant/distribution system modifications,

replacement or modification of lighting fixtures, energy recovery systems, renewable energy generation, decarbonization, and cogeneration systems construction.

THE SOLICITATION

Use of City Website for Procurement

Most procurements requiring a quotation process, and all IFB or RFP solicitations, will be posted on the City website, which will be the single source for vendors and contractors to obtain documents. Unless the solicitation documents are too complex or too large to make available through the website, potential vendors and/or contractors will be directed and required to download documents from the website.

Receiving and Evaluating Responses

All quotations, bids and proposals are to be sent to/collected at the address of the Chief Procurement Officer and will be opened by the Chief Procurement Officer or designee.

For an IFB, the CPO will receive all bids, and at the time of the bid opening will open, read aloud, and prepare a bid tabulation sheet with the results. The CPO will consider each bidder's responsiveness to the basic requirement.

For an RFP, the CPO will receive all proposals, and at the time of opening will open and prepare a register of proposals. Price proposals will remain unopened at this time. The CPO will provide the proposals to members of an evaluation committee. Once the evaluation committee reaches a decision, the CPO will open the price proposals and provide to evaluators for recommendation of award.

Late Responses

A late bid or proposal is one that is delivered after the due date and time. If a bid or proposal is late, it must be rejected as non-responsive, and as such will be returned unopened to the person submitting the bid or proposal. Should a bid or proposal be received via USPS/UPS/FedEx or any other courier service, it shall be refused upon attempted delivery. If mailed, it shall be returned unopened.

Corrections or modifications to responses are also not accepted beyond the due date and time.

Deciding Tie Bids

On the rare occasion of a tie bid, the City must use a tie-breaking method which is fair to all responders. It will be the policy of the CPO to direct the tie bidders to conduct a "second heat" whereas they will be asked to send an additional response with a new bid form on a date and time specific. Should the second heat result in another tie, the bid will be awarded by coin toss with tied bidders in attendance.

Awarding and Executing Contracts

Once the vendor/contractor has been identified as eligible for a contract, the CPO will draft and send a Notice of Award, followed by a contract. In the rare case that the vendor/contractor supplies a contract, the CPO will adapt that contract to the City's format prior to distribution for signatures, or may reject the contract and issue a standard City contract.

A contract packet will be considered complete when returned from the vendor/contractor with all required documents, which may include insurance certificates, bonds, guarantee or warranty documents. If any component is missing, the CPO will notify the vendor/contractor.

ADDITIONAL INFORMATION

Protests

Any vendor or contractor intending to protest an award is instructed to do so by submitting, in writing, specific contentions. All correspondence in this regard must be directed to the Chief Procurement Officer, who will confer with legal counsel and determine the basis for the protest. The City will respond in writing within ten (10) days of receipt of the protest.

Financial Interest of City Employees

Municipal employees and their family members are not allowed to have a financial interest in a contract with the City they are employed by. Municipal employees and their family members are also forbidden to solicit or accept gifts, gratuities, or favors from anyone looking to conduct business with the City of Fitchburg. Incidents of this nature will be reported to the appropriate authorities for investigation.

Non-Collusion Certification

All those doing business with the City will be required to certify under penalties of perjury that their quote, bid, or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Vendor or Contractor Tax Status

All those doing business with the City will be required to certify under the penalties of perjury, pursuant to Massachusetts General Laws Chapter 62C, Section 49A, that to the best of their knowledge and belief, they have complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

In addition, a social security or tax identification number may be furnished to the Massachusetts Department of Revenue to determine whether tax filing or tax payment obligations have been met. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended.

Minority/Women-Owned, Disadvantaged Businesses and Small, Locally-Owned Businesses

Our mission is to provide opportunities for diversity, equity, and inclusion in our municipal contracting process to businesses owned by minorities, women, veterans, service-disabled veterans, those with a disability, and LGBTQ+ individuals, as well as small local businesses.

The Procurement Team regularly publishes contract opportunities for goods, services, and construction projects. Vendors and contractors should use the City website to access our current list of opportunities and more information about the City procurement process.

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