

SWANSEA HOUSING AUTHORITY

Procurement Policy

This procurement policy has been adopted by the Swansea Housing Authority (SHA) in order to comply with Massachusetts bidding statutes governing the procurement of supplies and services (**MGL c.30B) the Uniform Procurement Act**, construction related work (**MGL c.149, S44A-H; MGL c.149, S44A1/2; MGL c.149,S44A3/4; MGL c.149, S29; MGL c.149, S26-27A; MGL c.30, S39M**) and design services (**MGL c.7, S38A1/2**), and Federal procurement requirements known as the “COMMON RULE” described at **24 CFR85.36 and 37** which requires a public entity to utilize the stricter of the two procurement requirements. This procurement policy supersedes any and all previous policies. This policy hereby incorporates by reference all provisions of the above-cited laws and regulations and adheres to the Code of Conduct for Public Employees, consistent with applicable state and federal laws.

I. PROCURING SUPPLIES AND SERVICES

Under Chapter 30B it is the actual bid/contract price and not the awarding authority’s estimate which determines the bidding procedures to be utilized for the procurement of supplies, services. Chapter 30B does not allow a jurisdiction to award a contract that exceeds the dollar threshold of the bidding procedure used nor does it allow contract increases to exceed twenty-five percent (25%).

A. Procurements for supplies and services governed by MGL c.30B, the Uniform Procurement Act shall be made in the following manner:

(1) The Manager, hereinafter referred to as the Chief Procurement Officer (CPO) or his/her authorized designee shall make procurements as necessary not to exceed **\$4,999.99** in the open market **using sound business judgment** to ensure that the price obtained is the most advantageous to the LHA.

(2) For the procurement of supplies and services estimated to cost between **\$5,000.00** and **\$24,999.99** the CPO or his/her authorized designee shall solicit price quotations either orally by telephone, or in writing from at least three vendors using a prepared written description for the particular procurement. However, this does not require the receiving three (3) quotes. The LHA may award a contract on the basis of one or two quotes received. The CPO must keep on file a record of all price quotations sought including names, addresses, and the dates and amounts of quotations. All documents relating to purchases and contracts under this section must be kept for a period of seven (7) years from date of final payment. **All procurements in excess of \$5,000.00 require a written and fully executed contract.**

(3) Invitations to Bid (IFB). For procurements estimated to cost **\$25,000.00** or more the CPO or his/her authorized designee must use the sealed Invitation to Bid (IFB) process in accordance with MGL c.30B S5 or justify using the RFP process in S6.

- Bids shall be invited in a newspaper of general circulation once, two (2) weeks before the date specified for the opening of bids;
- IFBs may be mailed to all available vendors;
Procurements of a **\$100,000.00** or more shall also be advertised in the Goods and Services Bulletin.
- A copy of the bid notice must be posted in a conspicuous place at the LHA;
- A Contract bid under this process shall be awarded to the lowest eligible responsible bidder.

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

(4) Requests for Proposals (RFP). For procurements estimated to cost **\$25,000.00** or more utilizing the RFP process in MGL c.30B S6 vs. the IFB process identified in (3) above, the process is as follows:

- The CPO or his/her authorized designee must provide the Board with written justification as to why it is advantageous and in the public interest to use this process;
- Criteria must be developed for each task; (MGL c.30B S6)
- Evaluation Committee must be appointed; (**not the LHA Board**)
- Allows contract award to bidder who has highest rating, not necessarily the lowest price;
- Two separate envelope bid submission.

(5) Statewide Contract List. For goods and services included on the statewide contract list awarded by the state's Operational Services Division (OSD), the CPO or his/her authorized designee may purchase from a statewide contract vendor without any further solicitation or invitation to bid regardless of the dollar amount.

- These procurements shall be documented;
- Expenditures of up to **\$4,999.99** shall be authorized by a standard purchase order form;
- Expenditures of **\$5,000.00** or more shall have a fully executed contract.

(6) Contracts in (2), (3) & (5) above may be entered into for a term greater than **three years**, including renewals, extension, or options, except automated laundry (LHA shall use the DHCD Service Contract Form, never the vendor's contract) or elevator services which shall be for a term voted by a majority of the Board before the procurement is made, but shall be no **greater than ten (10) years**.

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

B. Services Exempt From MGL c.30B

(8) In accordance with MGL c.30B S1(b)(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 subdivision is exempt from Chapter 30B procurement requirements.

(9) In accordance with MGL c30B S1(b)(15), contacts with labor relations representatives, lawyers, designers, or certified public accountants are exempt from Chapter 30B procurement requirements. (For legal services, LHA shall use the DHCD Agreement for Legal Services; for CPA consultants see DHCD Accounting Manual; for Design Services, consult DHCD project manager.)

(10) In accordance with MGL c30B S1(b)(30) a contract for the collection, transportation, receipt, processing or disposal of solid waste, recyclable or combustible materials. (For trash removal LHA shall use the DHCD Service Contract Form, never the vendor's contract.)

C. Emergency Procurements Under MGL c.30B

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

D. Sole Source Procurements Under MGL c.30B

(1) The LHA may make a sole source procurement of any supply or service under **\$25,000.00** when reasonable investigation shows that there is only one practicable source for the required supply or service. This determination that only one practical source exists must be in writing (Chapter 30B, Section 7).

E.

Contract Funding

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

II. CONSTRUCTION CONTRACTS
BUILDING RELATED – VERTICAL CONTRUCTION

When construction contracts are procured under the following methods, the LHA shall apply for prevailing wage rates in accordance with MGL c.149 S26-27A regardless of the dollar amount. All construction contracts in the amount of **\$2,000.00** or more shall require a payment bond in an amount not less than one-half (1/2) of the contract price, in accordance with MGL c.149 S29. This requirement cannot be waived and letters of credit, checks or bank books cannot be accepted in lieu of a payment bond. The LHA shall use the appropriate DHCD Front0end document on all state developments.

A. Small building related (vertical construction) and site work (horizontal construction) construction projects shall be awarded in the following manner:

(1) For small building related construction contracts which include labor and materials estimated to cost between **\$0 to \$9,999.00**, the CPO or his/her authorized designee shall follow MGL c.149 S44A(2)(A) and may award by soliciting three (3) written price quotes to ensure contract award to the most responsible person at the lowest price.

(2) For small building related construction contracts which include labor and materials estimated to cost between **\$10,000.00 to \$24,999.00**, CPO must follow MGL c.149 149 S44(2)(B) procedures and **solicit written quotes from at least three (3) contractors using the public notification process. DHCD RECOMMENDS SEALED BIDS.** However, it does not require receiving three written quotes. You may award a contract on the basis of one (1) or two (2) written quotes received.

The CPO shall keep on file a record of all price quotations including names, addresses, and the amounts of quotations. All documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from date of final payment.

(3)

For construction contracts estimated to cost between **\$25,000.00 and \$100,000.00** the CPO or his/her authorized designee shall follow the sealed bid procedures of MGL c.149 S44A(2)(C) identified in MGL c.30 S39M as follows:

- Bids shall be invited by advertising in the central register and a newspaper of general circulation once, two (2) weeks before the date specified for the opening of bids. Bid notice shall be posted in a conspicuous place at the LHA;
- Ad/invitation may be mailed to all available contractors to stimulate competition;
- A contract bid under this process shall be awarded to the lowest eligible and responsible bidder.

(4) For construction contracts estimated to cost **\$100,000.00 to \$10,000,000.00** (contracts for the construction, demolition, maintenance, or repair of a building – vertical construction) the CPO or his/her authorized designee shall follow the sealed bid procedures required under MGL c.149 S44A-M. These contracts require prevailing wage rates or, if a federal project, Davis Bacon Wage Rates and require a performance and payment bond in the full amount of the contract price.

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

(5) For construction contracts estimated to cost **\$10,000,000.00 or more** (contracts for the construction, demolition, maintenance, or repair of a building – vertical construction) the CPO or his/her authorized designee shall follow the pre-qualification process and sealed bid procedures required under MGL c.149 S44D1/2 and MGL c.149 S44D3/4.

III. NON-BUILDING RELATED **CONSTRUCTION HORIZONTAL CONSTRUCTION** **CONSTRUCTION MATERIALS**

(1) For public works construction , i.e., site work (horizontal construction) labor and materials or for the purchase of construction materials with no labor estimated to cost **\$10,000.00 or more** the CPO or his/her authorized designee shall follow the sealed bid procedure under MGL c.30S39M and use the appropriate DHCD Construction Front-End. LHA also has the discretion to utilize MGL c.30B procurement requirements as outlined below and in the attached summary. All of these contracts require prevailing wage rates and a payment bond in an amount not less than one-half (1.2) of the contract price is required. **On projects \$50,000.00 or more DHCD requires a performance and payment bond in 100% of the contract amount.**

(2) As stated in #1 above, the LHA also has the option of using Chapter 30B for horizontal construction projects which include labor and materials estimated to cost between **\$0 to \$4,999.00; \$5,000 to \$9,999.99 and \$10,000 to \$25,000.00**. **These procedures are in the attached summary**. These contracts require prevailing wage rates and a payment bond in an amount not less than one-half (1/2) of the contract price if cost is \$2,000 or more.

- The LHA may be part of a local city or town governmental procurement, i.e., site work if upon request by the LHA the contracting governmental agency includes the LHA in its initial advertisement for bids by describing the work and location of work to be performed for the LHA.

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

(3) For the purchase of **construction materials** only (**no labor**) estimated to cost between **\$0 and \$4,999.00** the CPO or his/her designee may use **MGL c.30B S5** using sound business judgment. Use a written specification for the particular procurement.

(4) For the purchase of **construction materials** only (**no labor**) estimated to cost between **\$5,000.00 and \$24,999.00** the CPO or his/her designee may use **MGL c30B S5** to solicit price quotations either orally by telephone, or in writing from at least three (3) vendors using a prepared written specification for the particular procurement. However, this does not require receiving three (3) quotes. The LHA may award a contract on the basis of one or two quotes received.

(5) For the purchase of **construction materials** only (**no labor**) estimated to cost **\$25,000.00 or more** the CPO or his/her designee may use **MGL c.30B S5** by advertising for bids in a newspaper of general circulation once two (2) weeks before bid opening. Contract is awarded to lowest eligible and responsible bidder.

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

III. THE BOARD

(1) The CPO shall submit all bids and quotes \$5,000.00 and up at the next regular meeting and the Board must vote to authorize the award of the bid.

(2) A CPO may not solicit or award a contract for a term greater than **three years, including renewals, extension, or option except for automated laundry or elevator services which shall be for a term voted by the Board. (No greater than 10 years.)**

(3) A written contract is required for supply and service procurements of **\$5,000.00 or more**. Purchases under \$5,000 may be made with a purchase order.

(4) Applicable rules established by the Department of Housing and Community Development and the Department of Housing and Urban Development, and their respective Inspector Generals' shall be adhered to. These procedures and any changes thereto will be submitted to the Board for approval.

(5) Lack of competition is permissible only when an emergency exists which permits no delay because of the possibility of injury, loss of life, or destruction of property, or when only one source of supply is available and the CPO or his/her designee shall so certify. For the purposes of emergency situations involving construction related work a DCAM waiver shall be required. For supplies and services the Chapter 30B emergency procedures are to be followed.

(6) Positive efforts shall be made by the CPO to use small minority-owned and women-owned businesses as a source for supplies and services. Such efforts should include developing a bidder's mailing list for these sources, and encouraging these businesses to compete for contracts to be awarded.

IV. DELEGATION OF PROCUREMENT OFFICER'S POWERS AND DUTIES

As this relates to MGL c.30B procurements the CPO may delegate his powers and duties in accordance with this section to one or more employees of the LHA. A delegation shall be in writing, be signed by the CPO, and state the activity or function authorized and the duration of the delegation. A delegation may be in specific or general terms, may be limited to a particular procurement or class of procurements, and may be conditioned upon compliance, with specified procedures. A delegation may be revoked or amended whenever the chief procurement officer determines that revocation or amendment is in the best interests of the governmental body. A delegation of power or duties by a procurement officer and any revocation or amendment thereof shall not take effect until a copy of the same has been filed with the office of the inspector general.

Board Approved: 6/9/2015

Revised: 2/9/2016