



CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager

Richard C. Rossi, Deputy City Manager

October 23, 2000

To The Honorable, The City Council:

Please find attached a communication received from Purchasing Agent Andrea Spears, requesting amendments to the Cambridge Municipal Code Chapters 2.34.150-Competitive Contracts, 2.112.030-Contracts Form, 2.34.210-Sale of Surplus Property, and 2.34.280-Emergency Purchases.

Very truly yours,

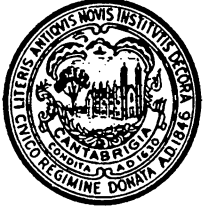
A handwritten signature in black ink, appearing to read "Robert W. Healy".

Robert W. Healy
City Manager

RWH/mec
Attachment



2000 Things 2 Do in 2000



CITY OF CAMBRIDGE
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PURCHASING DEPARTMENT
ANDREA J. SPEARS
Purchasing Agent

To: Robert W. Healy
City Manager

From: Andrea J. Spears *A. Spears*
Purchasing Agent

Date: October 17, 2000

Re: Request to Amend City Ordinance

Effective July 1, 2000, certain sections of M.G.L. c. 30B were amended. The amendments in part raise the threshold for purchases requiring solicitation of price quotations in section 4, from \$1,000 to \$5,000. The Threshold for requiring advertised sealed bids or proposals in sections 5 and 6, has been increased from \$10,000 to \$25,000.

The threshold for the disposal of surplus property under section 15 has been increased from \$500 to \$5000.

Based on the above stated amendments to M.G.L. c. 30B, please accept this memorandum as a request to amend the following City Ordinances:

2.34.150 - Competitive Contracts

Currently states: All procurements for supplies or services exceeding one thousand dollars shall be based upon competition, and all procurements for supplies or services of ten thousand or more shall be made in the manner provided by Chapter 2.112 of this title.

Proposed: All procurements for supplies or services exceeding five thousand dollars shall be based upon competition, and all procurements for supplies or services of ten thousand dollars or more shall be made in the manner provided by Chapter 2.112 of this Title.

Chapter 2.112 states in part that any contract exceeding \$10,000 for any work in the City may be required to be accompanied by a bond and all written contracts shall be executed in quadruplicate.

2.112.030 - Contracts Form

Currently states: In all cases where the amount of any contract shall exceed the sum of five thousand dollars, the contract shall be in writing and, after being signed by the parties, shall not be altered, in any particular way, without the consent of the contractor and of the board or officer making the contract, endorsed thereon. All payments for extra services or supplies, which

extra services or supplies shall be approved in advance by the department head, the Purchasing Agent and the City Auditor, shall be made at the time of the final payment on such contract.

Proposed: In all cases where the amount of any contract shall exceed the sum of ten thousand dollars, the contract shall be in writing and, after being signed by the parties, shall not be altered, in any particular way, without the consent of the contractor and of the board or officer making the contract, endorsed thereon. All payments for extra services or supplies, which extra services or supplies shall be approved in advance by the department head, the Purchasing Agent and the City Auditor, shall be made at the time of the final payment on such contract.

2.34.210 - Sale of Surplus Property

Currently states: All sales of surplus personal property made by the Purchasing Agent, where the dollar value is less than five hundred dollars, shall be made pursuant to sound business practice.

Proposed: All sales of surplus personal property made by the Purchasing Agent, where the dollar value is less than five thousand dollars, shall be made pursuant to sound business practice.

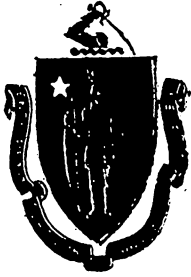
Additionally, based on the current practice, I respectfully request amending City Ordinance 2.34.280.

2.34.280 - Emergency Purchases

Currently states: In case of emergency, a department head or official may directly purchase such supplies or services as may be needed, but before liability shall accrue to the City, approval of the purchase shall be given by the City Manager.

Proposed: In case of emergency, a department head or official may directly purchase such supplies or services as may be needed, but before liability shall accrue to the City, approval of the purchase shall be given by the Purchasing Agent.

Please contact me if you should have any questions, or need additional information.



ROBERT A. CERASOLI
INSPECTOR GENERAL

The Commonwealth of Massachusetts
Office of the Inspector General

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**Summary of Changes to the
Public Procurement Laws**

The following is a summary of the changes that appear in the FY 2001 budget. These changes are effective as of July 1, 2000.

M.G.L. c. 30B

- The intergovernmental agreement exemption, M.G.L. c. 30B, §1(b)(9), has been broadened to permit awarding authorities to purchase supplies and services from, or dispose of supplies to, other state governments or their political subdivisions without following M.G.L. c. 30B procedures.
- The definition of "chief procurement officer" contained in M.G.L. c. 30B, §2 has been broadened to include local authorities, such as housing authorities, and other governmental bodies that are subject to M.G.L. c. 30B but were not specifically included in the previous definition of "chief procurement officer."
- The threshold for purchases requiring the solicitation of price quotations under M.G.L. c. 30B, §4 has been increased from \$1,000 to \$5,000.
- The threshold for purchases requiring advertised, sealed bids or proposals under M.G.L. c. 30B, §§5 and 6 has been increased from \$10,000 to \$25,000.
- M.G.L. c. 30B has been amended to clarify that the governmental body and the apparent lowest responsive and responsible bidder (highest bidder when the contract requires payment to the awarding authority) are the parties that may agree to an extension of time for bid awards under M.G.L. c. 30B, §5.

Similarly, M.G.L. c. 30B has been amended to clarify that the governmental body and the responsible and responsive offeror

offering the most advantageous proposal as determined by the chief procurement officer are the parties that may agree to a time extension for proposal awards under M.G.L. c. 30B, §6.

The time extension for bid and proposal awards to which the parties may agree is now limited to an additional 45 days.

- Sole source procurements under M.G.L. c. 30B, §7 are now permissible for contracts of less than \$25,000 (raised from \$10,000) when a procurement officer determines that there is only one practicable source.
- Awarding authorities are now permitted under M.G.L. c. 30B, §13 to increase the amount of supplies or services purchased under a contract provided that the increase in the total contract price does not exceed 25 percent (raised from 10 percent). The amendment permits awarding authorities to exceed the 25 percent cap for special fuel and all ice and snow control supplies, in addition to gasoline, fuel oil, and road salt.
- M.G.L. c. 30B, §13 now explicitly states that awarding authorities may negotiate a reduction in the unit price paid for supplies or services at any time during the term of the contract or when an option to renew, extend, or purchase is exercised.
- The threshold for the disposal of surplus supplies under M.G.L. c. 30B, §15 has been increased from \$500 to \$5,000.
- M.G.L. c. 30B, §16 now contains explicit language, consistent with the Office of the Inspector General's long-standing interpretation, that intergovernmental acquisitions or dispositions of real property interests are exempt from the competitive proposal requirement of M.G.L. c. 30B, §16.

M.G.L. c. 7

- M.G.L. c. 7, §38E now provides qualified immunity to protect individuals responsible for completing standard designer evaluation forms on behalf of awarding authorities from lawsuits. M.G.L. c. 7, §38E also requires the awarding authority to provide legal representation and indemnification for those individuals in lawsuits stemming from contractor evaluations. The Division of Capital Asset Management (DCAM) is required to develop a standard designer evaluation form under this provision.

Completion of standard designer evaluation forms is now a prerequisite for the disbursement of state funding for subsequent construction projects.

- M.G.L. c. 7, §38H(d) has been repealed. M.G.L. c. 7 now permits all awarding authorities to contract with the same designer for study and subsequent design services on building projects. (Note: M.G.L. c. 7, §38H(i) still requires cities and towns to obtain a satisfactory independent review of the study designer's work prior to contracting with the same designer for subsequent design services.)

M.G.L. c. 149

- Contractors are now required under M.G.L. c. 149, §44D to disclose financial or familial relationships with any of the construction project owners listed on their certification applications.
- M.G.L. c. 149, §44D now provides that any material false statement in a contractor's certification application or update statement shall subject the contractor to the penalties of perjury as set forth in M.G.L. c. 268, §1.
- M.G.L. c. 149, §44D now permits DCAM to reduce the classes of work and the amount of work on which a contractor can bid if DCAM receives additional information regarding the contractor's qualifications during its certification period.
- M.G.L. c. 149, §44D now provides qualified immunity to protect individuals responsible for completing standard contractor evaluation forms on behalf of awarding authorities from lawsuits. M.G.L. c. 149, §44D also requires the awarding authority to provide legal representation and indemnification for those individuals in lawsuits stemming from contractor evaluations. DCAM is required to develop a new standard contractor evaluation form under this provision.

Completion of contractor evaluation forms is now a prerequisite for the disbursement of state funding for subsequent construction projects.

M.G.L. c. 30, §39M

- M.G.L. c. 30, §39M has been amended to clarify that the awarding authority makes the determination as to whether a bid item is equal to that named in a specification.
- M.G.L. c. 30, §39M has been amended to clarify that awarding authorities subject to M.G.L. c. 30B may purchase construction materials (materials only, no labor) under either M.G.L. c. 30B as a "supply" contract or M.G.L. c. 30, §39M as a "materials" contract.

NOTE: M.G.L. c. 30, §39K, which governs contractor payments on public building construction contracts, has been amended to include an additional mandatory provision providing some recourse to an awarding authority when a general contractor fails to complete a punch list after written notice thereof. The awarding authority is now permitted to terminate the contract and complete the work at the original contractor's expense. The awarding authority is required to note the termination on the contractor evaluation form filed with DCAM.

Consent Agenda #6

5348

Relative to a request to amendment
the Municipal Code Chapters 2.34.150
Competitive Contracts, 2.112.030
Contracts Form, 2.34.210 Sales of
Surplus Property and 2.34.280
Emergency Purchases.

In City Council October 23, 2000

*Referred to Ordinance
Committee*

*10/25
sent to C. Born + V. M. Maken*