



The Commonwealth of Massachusetts

Department of the State Secretary

State House - Boston 02133

MICHAEL JOSEPH CONNOLLY
SECRETARY OF STATE

To: City and Town Clerks

From: Michael Joseph Connolly, Massachusetts Secretary of State

Re: Chapter 579 of the Acts of 1980

Date: June 19, 1981

PUBLISHING PUBLIC CONTRACT INFORMATION

Chapter 579 enacted in 1980 is a new law to improve the system of public construction in the Commonwealth and will become effective July 1, 1981. In addition to other changes in the bidding and contract process it will require local governments (as well as state, county and regional) to file contract information with my office for publication in a new state document called the Central Register. The requirements for filing and publication are serious because, although the law imposes no sanctions for non-compliance, it does establish a condition precedent to the validity of any contract.

TYPES OF CONTRACTS

Enclosed are the regulations (950 CMR 21.00) that will govern the filing of contract information by all public agencies. Definitions under "capital facility" and "design services" are particularly important since they establish the types of contracts that will be required to be published. Contracts adopted under M.G.L. Chapter 40 are not affected by Chapter 579.

DOLLAR AMOUNT OF CONTRACTS

The regulations state that all contracts estimated to be in excess of \$25,000 shall be published (950 CMR 21.02 (2)). As the law reads now however, some types of contracts at a lower amount are required to be published. We hope that amending legislation will be enacted prior to July 1 that will establish a uniform contract amount. The chart included here should help you in determining which type of contract, at what dollar amount, will be needed to be published at what time.

REGIONAL AUTHORITIES

Publication in the Central Register will also apply to any regional government entity whether school, sewer, water or any other that will be contracting for a "capital facility". There seems to be no central record of all these regional authorities that will enable us to notify them about the requirements of Chapter 579. We need to rely on each municipal member of a regional authority to inform whoever is the responsible administrative officer.

FORMS TO BE USED

A great variety of public contract information will be printed in the Central Register. For that reason we find it necessary to require that most of the information be submitted in a prescribed form so that the Register will be a consistent, coherent and readable document. A supply of these forms is enclosed to be used by contracting departments in your city or town. The forms to be used include: (1) invitation to bid - general contract, (2) invitation to bid - sub bid contract, (3) list of contractors obtaining plans/specifications, (4) list of eligible contractors, and (5) contract award.

CONTRACTS PUBLISHED IN THE CENTRAL REGISTER

Type of Contract	Amount of Contract	Notice Required	Additional Provisions
1. Construction - general	\$25,000	*	see "capital facility"
2. Demolition	25,000	*	
3. Design Services	10,000	2 weeks	see "design services" not housing authorities
4. Maintenance	25,000	*	
5. Purchase of equipment, supplies, materials	25,000	*	when "incidental" to a capital facility project
6. Purchase, real property**		30 days	local notice also when over 2500 sq. ft.
7. Reconstruction	25,000	*	
8. Renovation	25,000	*	
9. Repair	25,000	*	
10. Rental, real property**	25,000	30 days	local notice over 2500 sq.ft.
11. Sale/acquisition**		30 days	local notice over 2500 sq.ft.
12. Sub bid categories	10,000	*	
13. State, under M.G.L.C.29,8a	5,000	2 weeks	

*No specific time required for prior notice, however practical considerations relating to requirements for applications to bid and publication of eligible contractors would indicate at least 6 weeks.

** State only.

cc: Legal Counsel

950 CMR 21.00: PREPARING AND FILING CONTRACT DATA FOR THE CENTRAL REGISTER

Section

- 21.01 Scope and Purpose
- 21.02 Definitions
- 21.03 Preparing Contract Data
- 21.04 Filing Contract Data

21.01: Scope and Purpose

(1) The regulations set forth in 950 CMR 21.00 establish standards for preparing, filing and publishing real property contract data by state and county agencies and all political subdivisions. They are intended to promote uniformity, clarity and coherence in form and economy, accessibility and timeliness in printing and distributing these data.

(2) The purpose is to make public real property contract data widely available to the public at reasonable cost in a form that is current and understandable.

(3) 950 CMR 21.00 establishes the organization and format of the Central Register and the requirements that must be met by every state and county agency and all political subdivisions filing with the Secretary.

21.02: Definitions

As used in 950 CMR 21.00 and unless otherwise construed by statute, these terms shall have the following meanings:

(1) "Agency" or "public agency" means every department, board, commission, division or authority of the state and county government or subdivision of any of the foregoing or political subdivision of the state or two or more subdivisions thereof (but not including the Massachusetts Bay Transportation Authority).

(2) "Central Register" means the weekly publication by the Secretary which lists all notices of contracting opportunities estimated to be in excess of \$25,000 offered by any public agency or authority of the state or any political subdivision thereof. Notices published in the Central Register shall include, but not be limited to:

- (a) invitations to bid relating to the procurement of supplies, design, construction and other services; and rentals of equipment incidental to the design, and/or construction, reconstruction, renovation, repair, demolition or furnishing of any capital facility;
- (b) notices of subcontracting opportunities incident to such design and/or construction, reconstruction, renovation, repair, demolition or furnishing
- (c) notices of proposed sales, rentals, dispositions or acquisitions of real property for the use of state agencies.

21.02: continued

- (d) the individual or firms selected for negotiation or award of any contract or as party to any other transaction, including leases, sales and other agreements;
 - (e) the amount of the contract, purchase, sale, lease or other agreement;
 - (f) the names of eligible contractors, subcontractors and suppliers;
 - (g) a periodic list of certified minority and women-owned contracting and subcontracting businesses.
 - (h) a periodic list of contractors to whom public contracts will not be awarded.
 - (i) a weekly list of contractors who have requested project plans and specifications related to a capital facility project.
- (3) "Capital facility" means:
- (a) a public improvement such as a building or other structure;
 - (b) a utility, fire protection and other major system and facility;
 - (c) a power plant facility and appurtenances;
 - (d) a heating, ventilating, air conditioning or other system;
 - (e) initial equipment and furnishings for a new building or building added to or remodeled for some other use;
 - (f) a public parking facility;
 - (g) a solid waste disposal or recovery facility;
 - (h) a recreational improvement such as a facility or development in a park or other recreational facility;
 - (i) or any other facility which may be included by statute or other standards as they may be prescribed from time to time by the Deputy Commissioner of Capital Planning and Operations provided, however, that a highway improvement such as a highway, bridge or tunnel, a transportation improvement or other public transit facility shall not be considered a capital facility as defined herein.
- (4) "Design services" means any of the following services provided by any designer, programmer or construction manager in connection with any public building project:
- (a) preparation of master plans, studies, surveys, soil tests, cost estimates or programs;
 - (b) preparation of drawings, plans or specifications, including but not limited to schematic drawings, preliminary plans and specifications, working plans and specifications or other administration of construction contract documents;
 - (c) supervision or administration of a construction contract;
 - (d) construction management or scheduling.
- (5) "Sub-bid categories" means the following classes of work required to be separate sections of a capital facility project:
- (a) roofing and flashing
 - (b) metal windows
 - (c) waterproofing, damp proofing and caulking

21.02: continued

- (d) miscellaneous and ornamental iron
- (e) lathing and plastering
- (f) acoustical tile
- (g) marble
- (h) tile
- (e) terrazzo
- (j) resilient floors
- (k) glass and glazing
- (l) painting
- (m) plumbing
- (n) heating, ventilating and air conditioning
- (o) electrical work
- (p) elevators
- (q) masonry work
- (r) any other class of work for which the agency deems it necessary or convenient to receive sub-bids.

21.03: Preparing Contract Data

(1) Rental Sale, Disposition or Acquisition of Property by State Agencies

Information related to the sale, rental, acquisition or disposition by any state agency shall be prepared in compatible word processing media arranged in alphabetical sequence by location and shall be submitted to the State Secretary as provided in 950 CMR 21.04.

(2) General Construction Contracts

Information related to the design or construction of a capital facility project as defined in 950 CMR 21.02 "Capital facility" shall be prepared in duplicate by the responsible public agency on forms provided by the State Secretary and shall state the following:

- (a) a brief description of the subject matter of the proposed transaction, including the appropriation or other identifying number.
- (b) the appropriation amount or estimated cost.
- (c) a brief description of special qualifications or requirements if any.
- (d) instructions for obtaining plans and specifications.
- (e) the time and place for submitting bids, but not detailed instructions as to the amount, manner or form of bid deposits.

(3) Sub-Bid Contracts

Information related to sub-bid contracts as defined in 950 CMR 21.02 "Sub-bid Categories" shall be prepared in duplicate on forms provided by the State Secretary by the responsible public agency, submitted to the State Secretary, and shall state for each sub-bid category the information required in 950 CMR 21.03(2)(a)-(e).

21.03: continued

(4) List of Eligible Contractors

Every public agency shall submit to the State Secretary 2 copies of a list of contractors determined to be eligible under the provisions of M. G. L. C.149, S. 44A. Said list shall be printable quality using black print on white paper, single spaced and alphabetically listed by company name. It shall be the responsibility of the agency to insure that this list is filed under the provisions of 950 CMR 21.04 for publication two weeks prior to the scheduled bid opening.

(5) List of Debarred Contractors

The Division of Capital Planning and Operations shall submit to the State Secretary 2 copies of a list of debarred contractors as provided in M. G. L. C.149, S. 44C. Said list shall be printable quality using black ink on white paper, single spaced and alphabetically listed by company name. The reason for debarment and length of time thereof shall be stated simply and directly. Thereafter the Division shall file additions and deletions to the list of debarred contractors.

(6) List of Persons who have requested Plans and Specifications

Every public agency shall submit to the State Secretary, on forms provided by the State Secretary, 2 copies of a list of those persons who have requested plans and/or specifications.

(7) Contract Awards

Every public agency shall submit to the State Secretary 2 copies of a notice stating the individual or firm selected for negotiation or award of any contract, or as a party to any other transaction for all contracts which had previously been required to be submitted to the State Secretary. Said notice shall contain only the subject matter of the design services, general construction, or sub-bid category contract or other contracts, the name of the contractor(s) and the dollar amount of the contract.

21.04 Filing Contract Data(1) When to File

The Central Register will be published on Wednesday of every week or Thursday of those weeks when a holiday occurs. Information required to be published in the Central Register shall be received by the State Secretary by Wednesday of the week preceding publication. It shall be the responsibility of each public agency to assure timely filing so that provisions of law pertaining to public notice are met.

(2) Where to File

The State Secretary will accept all documents for publication in the Central Register at the Massachusetts Regulations Division, Room 74C, State House, Boston, Ma. 02133.

21.04: continued

(3) What to File

- (a) Unless otherwise provided all information required to be published in the Central Register shall be submitted on forms provided by the State Secretary in duplicate. Newspaper copies or more than one photocopy or handwritten copies will not be accepted.
- (b) Unnecessarily lengthy or redundant descriptions are not acceptable.
- (c) Provisions relating to the nature, form and amount of bid deposits should not be included.

REGULATORY AUTHORITY:

950 CMR 21.00: M.G.L. C. 9, s. 20 as amended by Chapter 579 of 1980.

CENTRAL REGISTER
CONTRACT AWARD

1. NAME OF AGENCY
(state, county, municipal or regional)
 2. DESCRIPTION OF PROJECT
SUB BID CATEGORY (if applicable)
 3. CONTRACT AWARDED TO
(name and address)
 4. CONTRACT AMOUNT
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Note: These forms have been printed in triplicate for economy and ease of handling. For filing with the State Secretary in duplicate, one original plus a carbon or photo copy is acceptable. Agencies may wish to retain a carbon of filings in sequence similar to a check book. Forms should be sent the State Secretary at the Massachusetts Department of Transportation, Division of Planning, 700 State Street, Boston, Massachusetts 02116.

CENTRAL REGISTER
CONTRACTORS OBTAINING PLANS / SPECIFICATIONS

1. NAME OF AGENCY
(state, county, municipal or regional)
2. PROJECT NAME
3. FOR THE WEEK ENDING

Note: This list must be typewritten and filed in duplicate with the State Secretary at the Massachusetts Regulations Division, Room 74C, State House, Boston, Ma. 02133 each week while bids are open.

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CENTRAL REGISTER
ELIGIBLE CONTRACTORS

1. NAME OF AGENCY

(state, county, municipal or regional)

2. PROJECT NAME

Note: This list must be typewritten and filed in duplicate with the State Secretary at the Massachusetts Regulations Division, Room 74C, State House, Boston, Ma. 02133. Each awarding authority is responsible for assuring that this list is filed with the State Secretary so that publication is no later than 2 weeks after the final date for submission of applications to bid and 2 weeks before the bid opening date.

CENTRAL REGISTER
INVITATION TO BID - GENERAL CONTRACTS

1. NAME OF AGENCY
(state, county, municipal or regional)
 2. DESCRIPTION OF PROJECT
 3. APPROPRIATION OR OTHER IDENTIFYING NUMBER
 4. APPROPRIATION AMOUNT OR ESTIMATED COST
 5. SPECIAL REQUIREMENTS (if any)
 6. PLANS / SPECIFICATIONS MAY BE OBTAINED AT
(time and place)
 7. BIDS WILL BE OPENED AT
(time and place)
 8. APPLICATIONS TO BID WILL BE ACCEPTED AT / UNTIL
(time and place)
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