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HOUSE . . . . . No. 3909

So much of the message from His Excellency the Governor recommending legislation relative to modernizing municipal finance and government [for message, see House, No. 3905] as relates to sections 1 through 12, 80, 222 through 229. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to modernize municipal finance and government.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1 [1]. Section 39M of chapter 30 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out the first paragraph of subsection (a) and inserting in place thereof the following three paragraphs:-

(a) Every contract for the construction, reconstruction, alteration, remodeling or repair of any public work, or for the purchase of any material, as hereinafter defined, by the commonwealth, or political subdivision thereof, or by any county, city, town, district, or housing authority, and estimated by the awarding authority to cost less than $10,000 dollars shall be obtained through the exercise of sound business practices; provided, however, that the awarding authority shall make and keep a record of each such procurement; and provided further, that the record shall, at a minimum, include the name and address of the person from whom the services were procured. An awarding authority that utilizes a vendor on a statewide contract procured through the operational services division of the Commonwealth, or a blanket contract procured

13 by the awarding authority as described below, shall be deemed to have obtained the contract
14 through sound business practices.

15 Every contract for the construction, reconstruction, alteration, remodeling or repair of any
16 public work, or for the purchase of any material, as hereinafter defined, by the commonwealth,
17 or political subdivision thereof, or by any county, city, town, district, or housing authority, and
18 estimated by the awarding authority to cost not less than $10,000 but not more than $50,000 shall
19 be awarded to the responsible person offering to perform the contract at the lowest price. The
20 awarding authority shall make public notification of the contract and shall seek written responses
21 from no fewer than 3 persons who customarily perform such work. The solicitation shall include
22 a scope-of-work statement that defines the work to be performed and provides potential
23 responders with sufficient information regarding the objectives and requirements of the awarding
24 authority and the time period within which the work shall be completed. The awarding authority
25 shall record the names and addresses of all persons from whom quotations were sought, the
26 names of the persons submitting quotations and the date and amount of each quotation.

27 An awarding authority may utilize a vendor list established through a statewide contract
28 procured through the operational services division to identify 1 or more of the persons from
29 whom it will seek written responses for purposes of this paragraph. An awarding authority may
30 also procure a blanket contract to establish a listing of vendors in certain defined categories of
31 work that are under contract to provide services for multiple individual tasks of not more than
32 $50,000 each, and from whom written responses will be sought. Any such blanket contract
33 procured by the awarding authority shall be procured under those provisions of either section
34 39M of chapter 30 or sections 44A-J of chapter 149 which are applicable to projects over
35 $50,000. For purposes of this paragraph, “public notification” shall include, but need not be

36 limited to, posting at least 2 weeks before the time specified in the notification for the receipt of
37 responses, the contract and scope-of-work statement on the website of the awarding authority, on
38 the commonwealth's centralized on-line public procurement announcement and solicitation
39 system administered by the operational services division, currently known as the COMMBUYS
40 system, or in the central register published pursuant to section 20A of chapter 9 and in a
41 conspicuous place in or near the primary office of the awarding authority; provided, however,
42 that if the awarding authority obtains a minimum of 2 quotations from a vendor list established
43 through a blanket contract or a statewide contract procured through the operational services
44 division, and the lowest of those quotations is deemed acceptable to the awarding authority,
45 public notification is not required.

46 Every contract for the construction, reconstruction, alteration, remodeling or repair of any
47 public work, or for the purchase of any material, as hereinafter defined, by the commonwealth,
48 or political subdivision thereof, or by any county, city, town, district, or housing authority, and
49 estimated by the awarding authority to cost more than $50,000 and every contract for the
50 construction, reconstruction, installation, demolition, maintenance or repair of any building by a
51 public agency, as defined by subsection (1) of section 44A of chapter 149, estimated to cost more
52 than $50,000 but not more than $150,000, shall be awarded to the lowest responsible and eligible
53 bidder on the basis of competitive bids publicly opened and read by such awarding authority
54 forthwith upon expiration of the time for the filing thereof; provided, however, that such
55 awarding authority may reject any and all bids, if it is in the public interest to do so. Every bid
56 for such contract shall be accompanied by a bid deposit in the form of a bid bond, or cash, or a
57 certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust
58 company, payable to the awarding authority. The amount of such bid deposit shall be 5 per cent

59 of the value of the bid. Any person submitting a bid under this section shall, on such bid, certify
60 as follows:

61 SECTION 2 [2]. Subsection (d) of said section 39M of said chapter 30, as so appearing,
62 is hereby amended by striking out, in line 99, the words “twenty-five thousand dollars” and
63 inserting in place thereof the following number:- $50,000.

64 SECTION 3 [3]. Said subsection (d) of said section 39M of said chapter 30, as so
65 appearing, is hereby further amended by inserting, in line 104, after the word “30B” the
66 following words:- , or procured through the operational services division of the Commonwealth
67 pursuant to section 22 of chapter 7 and sections 51 and 52.

68 SECTION 4 [4]. Said Section 39M, as so appearing, is hereby further amended by
69 adding the following subsection:-

70 (f) Notwithstanding the foregoing, the installation, repair and maintenance of
71 telecommunication and data cabling and wiring; telecommunication, security, audiovisual and
72 computer equipment; and carpeting, shall be procured subject to the provisions of section 22 of
73 chapter 7 and sections 51 and 52, unless the awarding authority makes a determination that it is
74 in the best interest of the project that such services be procured through section 39M of chapter
75 30 or sections 44A-J of chapter 149.

76 SECTION 5 [5]. Subsection (b) of section 1 of chapter 30B of the General Laws, as so
77 appearing, is hereby amended by striking out clause (23).

78 SECTION 6 [6]. Section 4 of said chapter 30B, as so appearing, is hereby amended by
79 striking out, in lines 3, 9 to 10, and 18 to 19, the words “less than $35,000,” each time they
80 appear, and inserting in place thereof the following words:- not more than $50,000.

81 SECTION 7 [7]. Section 5 of said chapter 30B, as so appearing, is hereby amended by
82 striking out, in lines 2 to 3, inclusive, the words “$35,000 or more” and inserting in place thereof
83 the following words:- more than $50,000.

84 SECTION 8 [8]. Said section 5 of said chapter 30B, as so appearing, is hereby further
85 amended by striking out, in lines 34 to 35, inclusive, the words “in a newspaper of general
86 circulation within the area served by the governmental body”, and inserting in place thereof the
87 following words:- on the commonwealth’s centralized on-line public procurement announcement
88 and solicitation system administered by the operational services division, currently known as
89 COMMBUYS system, or in the central register published pursuant to section 20A of chapter 9.

90 SECTION 9 [9]. Said section 5 of said chapter 30B, as so appearing, is hereby further
91 amended by striking out, in lines 36 to 37, inclusive, the words “twenty-five thousand dollars or
92 more” and inserting in place thereof the following number:- more than $50,000.

93 SECTION 10 [10]. Section 6 of said chapter 30B, as so appearing, is hereby amended by
94 striking out, in line 2, the words “$35,000 or more” and inserting in place thereof the following
95 words:- more than $50,000.

96 SECTION 11 [11]. Section 6A of said chapter 30B, as so appearing, is hereby amended
97 by striking out, in line 2, the words “$35,000 or more” and inserting in place thereof the
98 following words:- more than $50,000

99 SECTION 12 [12]. Section 7 of said chapter 30B, as so appearing, is hereby amended by
100 striking out, in line 2, the words “less than $35,000” and inserting in place thereof the following
101 words:- not more than $50,000.

102 SECTION 13 [80]. Section 46 of chapter 44 of the General Laws is hereby repealed.

103 SECTION 14 [222]. Subsection 2 of section 44A of chapter 149 of the General Laws, as
104 so appearing, is hereby amended by striking out paragraphs (A) and (B) and inserting in place
105 thereof the following two paragraphs:-

106 (A) Every contract or procurement for the construction, reconstruction, installation,
107 demolition, maintenance or repair of a building by a public agency estimated to cost less than
108 $10,000 shall be obtained through the exercise of sound business practices; provided, however,
109 that the public agency shall make and keep a record of each such procurement; and provided
110 further, that the record shall, at a minimum, include the name and address of the person from
111 whom the services were procured. A public agency that utilizes a vendor on a statewide contract
112 procured through the operational services division of the Commonwealth, or a blanket contract
113 procured by the public agency as described below, shall be deemed to have obtained the contract
114 through sound business practices.

115 (B) Every contract for the construction, reconstruction, installation, demolition,
116 maintenance or repair of any building estimated to cost not less than $10,000 but not more than
117 $50,000 shall be awarded to the responsible person offering to perform the contract at the lowest
118 price. The public agency shall make public notification of the contract and shall seek written
119 responses from no fewer than 3 persons who customarily perform such work. The solicitation
120 shall include a scope-of-work statement that defines the work to be performed and provides

121 potential responders with sufficient information regarding the objectives and requirements of the
122 public agency and the time period within which the work shall be completed. The public agency
123 shall record the names and addresses of all persons from whom quotations were sought, the
124 names of the persons submitting quotations and the date and amount of each quotation. A public
125 agency may utilize a vendor list established through a statewide contract procured through the
126 operational services division to identify one or more of the persons from whom it will seek
127 written responses for purposes of this paragraph. A public agency may also procure a blanket
128 contract to establish a listing of vendors in certain defined categories of work that are under
129 contract to provide services for multiple individual tasks of not more than $50,000 each, and
130 from whom written responses will be sought. Any such blanket contract procured by the
131 awarding authority shall be procured under those provisions of either section 39M of chapter 30
132 or sections 44A-J of chapter 149 which are applicable to projects over $50,000. For purposes of
133 this paragraph, "public notification" shall include, but need not be limited to, posting at least 2
134 weeks before the time specified in the notification for the receipt of responses, the contract and
135 scope-of-work statement on the website of the public agency, on the Commonwealth's
136 centralized on-line public procurement announcement and solicitation system administered by
137 the operational services division, currently known as the COMMBUYS system, or in the central
138 register published pursuant to section 20A of chapter 9 and in a conspicuous place in or near the
139 primary office of the public agency; provided, however, that if the public agency obtains a
140 minimum of two quotations from a vendor list established through a blanket contract or a
141 statewide contract procured through the operational services division, and the lowest of those
142 quotations is deemed acceptable to the public agency, public notification is not required.

143 SECTION 15 [223]. Said subsection 2 of said section 44A of said chapter 149, as so
144 appearing, is hereby further amended by striking out, in line 75, the words “not less than
145 $25,000” and inserting in place thereof the following words:- more than $50,000

146 SECTION 16 [224]. Said subsection 2 of said section 44A of said chapter 149, as so
147 appearing, is hereby further amended by striking out, in line 76, the figure “$100,000” and
148 inserting in place thereof the following figure:- $150,000

149 SECTION 17 [225]. Said subsection 2 of said section 44A of said chapter 149, as so
150 appearing, is hereby further amended by striking out, in line 87, the figure “$100,000” and
151 inserting in place thereof the following figure:- $150,000

152 SECTION 18 [226]. Said subsection 2 of said section 44A of chapter 149, as so
153 appearing, is hereby further amended by inserting after paragraph (G) the following new
154 paragraph:-

155 (H) Notwithstanding paragraphs (A) and (B), the installation, repair and maintenance of
156 telecommunication and data cabling and wiring; telecommunication, security, audiovisual and
157 computer equipment; and carpeting, shall be procured subject to the provisions of section 22 of
158 chapter 7 and sections 51 and 52 of chapter 30, unless the public agency makes a determination
159 that it is in the best interest of the project that such services be procured through section 39M of
160 chapter 30 or sections 44A-J of chapter 149.

161 SECTION 19 [227]. Section 44F of said chapter 149, as so appearing, is hereby amended
162 by striking out, in line 6, the figure “$20,000” and inserting in place thereof the following
163 figure:- $25,000

164 SECTION 20 [228]. Said section 44F of said chapter 149, as so appearing, is hereby
165 further amended by striking out, in line 42, the words “ten thousand dollars” and inserting in
166 place thereof the following number:- $25,000.

167 SECTION 21 [229]. Subsection 1 of section 44J of said chapter 149, as so appearing, is
168 hereby amended by striking out, in lines 15 and 16, inclusive, the words “and in a newspaper of
169 general circulation in the locality of the proposed project”, and inserting in place thereof the
170 following words:- and on the commonwealth’s centralized on-line public procurement
171 announcement and solicitation system administered by the operational services division,
172 currently known as the COMMBUYS system