

**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:*

1           SECTION 1 [1]. Section 39M of chapter 30 of the General Laws, as appearing in the  
2   2014 Official Edition, is hereby amended by striking out the first paragraph of subsection (a) and  
3   inserting in place thereof the following three paragraphs:-

4           (a) Every contract for the construction, reconstruction, alteration, remodeling or repair of  
5   any public work, or for the purchase of any material, as hereinafter defined, by the  
6   commonwealth, or political subdivision thereof, or by any county, city, town, district, or housing  
7   authority, and estimated by the awarding authority to cost less than \$10,000 dollars shall be  
8   obtained through the exercise of sound business practices; provided, however, that the awarding  
9   authority shall make and keep a record of each such procurement; and provided further, that the  
10   record shall, at a minimum, include the name and address of the person from whom the services  
11   were procured. An awarding authority that utilizes a vendor on a statewide contract procured  
12   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