

HOUSE No. 4226

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 19, 2016.

The committee on State Administration and Regulatory Oversight to whom was referred 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 (House, No. 3909), reports recommending that the accompanying bill (House, No. 4226) ought to pass.

For the committee,

PETER V. KOCOT.

HOUSE No. 4226

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, and 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

69 SECTION 4 [4]. Subsection (b) of section 1 of chapter 30B of the General Laws, as so
70 appearing, is hereby amended by striking out clause (23).

71 SECTION 5 [5]. Section 4 of Chapter 30B, as so appearing is hereby amended by
72 striking out paragraph (a) and inserting in place thereof the following paragraph:-

73 (a) Except as permitted pursuant to this section and section seven, for the
74 procurement of a supply or service in the amount of \$10,000 or greater, but not more than
75 \$50,000, a procurement officer shall seek written quotations from no fewer than three persons
76 customarily providing such supply or service. The procurement officer shall record the names
77 and addresses of all person from whom quotations were sought, the purchase description used for
78 the procurement, the names of the persons submitting quotations and the date and amount of
79 each quotation. Such information shall be retained in the file required under section 3. A
80 governmental body may require that procurements in amounts of not more than \$50,000 be
81 subject to the provisions of section five.

82 SECTION 6[6]. Section 5 of said chapter 30B, as so appearing, is hereby amended by
83 striking out, in lines 2 to 3, inclusive, the words “\$35,000 or more” and inserting in place thereof
84 the following words:- more than \$50,000.

85 SECTION 7 [7]. Said section 5 of said chapter 30B, as so appearing, is hereby further
86 amended in line 35 by inserting after the word “body” the following words: and on the
87 commonwealth’s centralized on-line public procurement announcement and solicitation system
88 administered by the operational services division, currently known as COMMBUYS system,and
89 for procurements in the amount of more than \$50,000, or such larger amount as may be
90 established by the state secretary, the procurement officer shall also place the notice in any
91 publication established by the state secretary for the advertisement of such procurements. Said
92 section 5 of said chapter 30B, as so appearing, is hereby further amended by striking out lines 36
93 through 40 in its entirety.

94 SECTION 8 [9]. Said section 5 of said chapter 30B, as so appearing, is hereby further
95 amended by striking out, in lines 36 to 37, inclusive, the words “twenty-five thousand dollars or
96 more” and inserting in place thereof the following number:- more than \$50,000.

97 SECTION 9 [10]. Section 6 of said chapter 30B, as so appearing, is hereby amended by
98 striking out, in line 2, the words “\$35,000 or more” and inserting in place thereof the following
99 words:- more than \$50,000.

100 SECTION10 [11]. Section 6A of said chapter 30B, as so appearing, is hereby amended
101 by striking out, in line 2, the words “\$35,000 or more” and inserting in place thereof the
102 following words:- more than \$50,000

103 SECTION11 [12]. Section 7 of said chapter 30B, as so appearing, is hereby amended by
104 striking out, in line 2, the words “less than \$35,000” and inserting in place thereof the following
105 words:- not more than \$50,000.

106 SECTION 12[80]. Section 46 of chapter 44 of the General Laws is hereby repealed.

107 SECTION 13[222]. Subsection 2 of section 44A of chapter 149 of the General Laws, as
108 so appearing, is hereby amended by striking out paragraphs (A) and (B) and inserting in place
109 thereof the following two paragraphs:-

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

119 (B) Every contract for the construction, reconstruction, installation, demolition,
120 maintenance or repair of any building estimated to cost not less than \$10,000 but not more than
121 \$50,000 shall be awarded to the responsible person offering to perform the contract at the lowest
122 price. The public agency shall make public notification of the contract and shall seek written
123 responses from no fewer than 3 persons who customarily perform such work. The solicitation
124 shall include a scope-of-work statement that defines the work to be performed and provides

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

147 SECTION 14 [223]. Said subsection 2 of said section 44A of said chapter 149, as so
148 appearing, is hereby further amended by striking out, in line 75, the words “not less than
149 \$25,000” and inserting in place thereof the following words:- more than \$50,000

150 SECTION 15 [224]. Said subsection 2 of said section 44A of said chapter 149, as so
151 appearing, is hereby further amended by striking out, in line 76, the figure “\$100,000” and
152 inserting in place thereof the following figure:- \$150,000

153 SECTION 16 [225]. Said subsection 2 of said section 44A of said chapter 149, as so
154 appearing, is hereby further amended by striking out, in line 87, the figure “\$100,000” and
155 inserting in place thereof the following figure:- \$150,000

156 SECTION 17 [226]. Said subsection 2 of said section 44A of chapter 149, as so
157 appearing, is hereby further amended by inserting after paragraph (G) the following new
158 paragraph:-

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

165 SECTION 18 [227]. Section 44F of said chapter 149, as so appearing, is hereby amended
166 by striking out, in line 6, the figure “\$20,000” and inserting in place thereof the following
167 figure:- \$25,000

168 SECTION 19 [228]. Said section 44F of said chapter 149, as so appearing, is hereby
169 further amended by striking out, in line 42, the words “ten thousand dollars” and inserting in
170 place thereof the following number:- \$25,000.

171 SECTION 20 [229]. Subsection 1 of section 44J of said chapter 149, as so appearing, is
172 hereby amended in line 16 by inserting after the word “project” the following words:- ,and on
173 the commonwealth’s centralized on-line public procurement announcement and solicitation
174 system administered by the operational services division, currently known as the COMMBUYS
175 system