

HOUSE No. 7

So much of the recommendations of the Inspector General (House, No. 3) as relates to updating Chapter 30B, the Uniform Procurement Law. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act updating Chapter 30B.

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. Section 1 of chapter 30B of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out subsection (b) and inserting in place thereof
3 the following subsection:-

4 (b) A governmental body is not required to apply this chapter to:

5 SECTION 2. Section 1 of chapter 30B, as so appearing, is hereby amended by inserting,
6 after clause (7), the following paragraph:-

7 Although not required to apply this chapter to the following, for accountability,
8 transparency and the fair and open expenditure of public funds, governmental bodies are
9 encouraged to follow this chapter for:

10 SECTION 3. Clause (8) of subsection (b) of said section 1 of chapter 30B, as so
11 appearing, is hereby amended by inserting, after the words “special education”, in line 24, the
12 following word:- only.

13 SECTION 4. Said subsection (b) of said section 1 of chapter 30B, as so appearing, is
14 hereby amended by striking out clause (13) and inserting in place thereof the following clause:-

15 (13) contracts for the services of expert witnesses for use in an active adjudicatory
16 proceeding or litigation;

17 SECTION 5. Clause (14) of said subsection (b), of said section 1 of chapter 30B, as so
18 appearing, is hereby amended by inserting after the word “members;” in line 49, the following
19 words:- further, this provision only applies to contracts for the generation or acquisition of
20 power, not to other supplies or services acquired by or disposed of by the municipal gas or
21 electric department;

22 SECTION 6. Clause (15) of said subsection (b), of said section 1 of chapter 30B, as so
23 appearing, is hereby amended, by inserting after the word “accountants”, in line 51, the
24 following words:- for work customarily performed by licensed members of these professions;.

25 SECTION 7. Said subsection (b) of said section 1 of chapter 30B, as so appearing, is
26 hereby amended by striking out clause (17).

27 SECTION 8. Said subsection (b) of said section 1 of chapter 30B, as so appearing, is
28 hereby amended by striking out clause (18).

29 SECTION 9. Said subsection (b) of said section 1 of chapter 30B, as so appearing, is
30 hereby amended by striking out clause (20) and inserting in place thereof the following clause:-

31 (20) a contract which is funded exclusively by the proceeds derived from a gift to a
32 governmental body or a trust established for the benefit of a governmental body with the
33 proceeds of a gift or bequest for the defined acquisition of a specific supply, service or real
34 property;

35 SECTION 10. Said subsection (b) of said section 1 of chapter 30B, as so appearing, is
36 hereby amended by striking out clause (21).

37 SECTION 11. Said subsection (b) of said section 1 of chapter 30B, as so appearing, is
38 hereby amended by striking out clause (31).

39 SECTION 12. Said subsection (b) of said section 1 of chapter 30B, as so appearing, is
40 hereby amended by striking out clause (32A) and inserting in place thereof the following clause:-

41 (32A) contracts with licensed architects, engineers and related professionals to provide
42 services customarily performed by members of these professions including, but not limited to,
43 report preparation, and conducting surveys;

44 SECTION 13. Subsection (d) of section 1 of chapter 30B, as so appearing, is hereby
45 amended by inserting, after the word “apply”, in line 124, the following word:- only.

46 SECTION 14. Section 2 of chapter 30B, as so appearing, is hereby amended by striking
47 out, in line 3, the words “architect and engineer” and inserting in place thereof the following
48 words:- architect, engineer and related professionals.

49 SECTION 15. Said section 2 of chapter 30B, as so appearing, is hereby amended by
50 inserting after the definition of “purchase description”, the following definition:-

51 “Reasonable investigation”, shall mean an investigation, which has a scope that is
52 appropriate for the particular procurement or disposition of supplies, services or real property,
53 and that is conducted by a procurement officer, with due diligence and in good faith.

54 SECTION 16. Said section 2 of chapter 30B, as so appearing, is hereby amended by
55 inserting after the definition of “Responsive bidder or offeror”, the following definition:-

56 “Rule for Award”, the method used to determine the outcome of a competitive
57 procurement based on one or more of the following criteria: price; acceptability as to quality,
58 workmanship, results of inspections and tests; suitability for a particular purpose; and
59 compliance with the requirements and criteria established in the solicitation.

60 SECTION 17. Said section 2 of chapter 30B, as so appearing, is hereby amended by
61 inserting after the definition of “Services”, the following definition:-

62 “Special Education”, for services directly related to student programs and services under
63 chapter seventy-one B.

64 SECTION 18. Section 3 of chapter 30B, as so appearing, is hereby amended by inserting,
65 after the words “\$10,000 or more”, in line 2, the following words: - for supplies or services.

66 SECTION 19. Section 4 of chapter 30B, as so appearing, is hereby amended by striking
67 out subsection (a) and inserting in place thereof the following subsection:-

68 (a) Except as permitted pursuant to this section and section 7, for the procurement of a
69 supply or service in the amount of \$10,000 or greater, but not more than \$50,000, a procurement

70 officer shall prepare a written purchase description and then seek written quotations from no
71 fewer than 3 persons customarily providing the supply or service. Quotations received by the
72 procurement office shall remain sealed until after the deadline for the receipt of the quotations.
73 The procurement officer shall record: (1) the names and addresses of all person from whom
74 quotations are sought, (2) the purchase description used for the procurement, (3) the names of the
75 persons submitting quotations, (4) the quotation due date, (5) the date and dollar amount of each
76 quotation, and (6) the quotation submissions. The procurement officer shall retain all documents
77 referenced in the preceding two sentences in a manner that is consistent with section 7 of chapter
78 4(26)(h) and section 3 of this chapter. A governmental body may require that any procurement in
79 an amount of not more than \$50,000 be subject to section 5 or 6.

80 SECTION 20. Said section 4 of chapter 30B, as so appearing, is hereby amended by
81 striking out subsection (b) and inserting in place thereof the following subsection:-

82 (b) Quotations shall not be modified after submission; however, the procurement officer
83 shall waive minor informalities or allow the person submitting quotations to correct the minor
84 informality.

85 The procurement officer shall award the contract to the lowest responsible and responsive
86 person submitting a quotation. A contract requiring payment to the governmental body of a net
87 monetary amount shall be awarded to the highest responsible and responsive person submitting a
88 quotation.

89 SECTION 21. Subsection (a) of section 7 of chapter 30B, as so appearing, is hereby
90 amended, by striking out in line 2, the words “or any contract”, and inserting in place thereof the
91 following words:-, or a contract in any amount.

92 SECTION 22. Subsection (c) of said section 7 of chapter 30B, as so appearing, is hereby
93 amended by inserting, after the word “exists”, in line 21, the following words:- , after conducting
94 a reasonable investigation.

95 SECTION 23. Section 8 of chapter 30B, as so appearing, is hereby amended by striking
96 out in lines 13 through 14, “at the earliest possible time” and inserting in place thereof:- within
97 30 days of executing each contract, unless the emergency prohibits timely submission within that
98 time, in which case the copy shall be submitted as soon as possible,.

99 SECTION 24. Said chapter 30B, as so appearing, is hereby amended by striking out
100 section 9, and inserting in place thereof the following section:-

101 Section 9. Before the deadline for submitting a bid, proposal, quotation or other offers,
102 the procurement officer may cancel an invitation for bids, a request for proposals, or other
103 solicitation when the procurement officer determines that cancellation serves the best interests of
104 the governmental body. After the deadline for submitting a bid, proposal, quotation or other
105 offers, the procurement officer may reject all bids, proposals, quotations or other offers when the
106 procurement determines that such rejection is in the best interest of the governmental body. The
107 procurement officer shall state in writing the reason for said action.

108 SECTION 25. Section 10 of chapter 30B, as so appearing, is hereby amended by striking
109 out the first paragraph and inserting in place thereof the following:-

110 A person submitting a bid or a proposal for the procurement, acquisition or disposal of
111 supplies or services or real property to any governmental body shall certify in writing, on the bid
112 or proposal, as follows:

113 SECTION 26. Section 12 of chapter 30B, as so appearing, is hereby amended by striking
114 out the first sentence in subsection (a) and inserting in place thereof the following sentence:-

115 Unless otherwise provided by law and subject to paragraph (b), a governmental body may
116 enter into a contract for any period of time if the period of time serves the best interests of the
117 governmental body and does not conflict with any other statute; provided, however, that the
118 procurement officer shall include in the solicitation the term of the contract and conditions of
119 renewal, extension or purchase, if any.

120 SECTION 27. Subsection (b) of section 15 of chapter 30B, as so appearing, is hereby
121 amended by inserting, after the words “established markets” in line 6, the following words:- , or
122 auctions in an in-person or electronic format.

123 SECTION 28. Subsection (f) section 15 of chapter 30B, as so appearing, is hereby
124 amended by inserting, in line 23, after the first sentence, the following sentence:- If no written
125 procedures exist, the governmental body shall use sound business practices to dispose of such
126 supply.

127 SECTION 29. Subsection (b) of section 16 of chapter 30B, as so appearing, is hereby
128 amended by inserting, after the word “valid” in line 9, the following words:- before the
129 anticipated disposition, and these records shall not be considered public records until the
130 transaction is complete. This valuation shall be conducted annually until the conclusion of the
131 disposition of the property.

132 SECTION 30. Clause (1) of subsection (e) of said section 16 of chapter 30B, as so
133 appearing, is hereby amended by striking out in lines 36 through 37, the words “at the earliest
134 opportunity; or” and inserting in place thereof the following words:- within 30 days of executing

135 each contract, unless the emergency prohibits timely submission within that time, in which case
136 the copy shall be submitted as soon as possible, to the state secretary for placement in the central
137 register; or.

138 SECTION 31. Subsection (g) of said section 16 of chapter 30B, as so appearing, is
139 hereby amended by inserting at the end, the following sentence:- Within 30 days of executing
140 each contract, the governmental body shall submit this notice to the state secretary for
141 publication in the central register.

142 SECTION 32. Subsection (c) of section 17 of chapter 30B, as so appearing, is hereby
143 amended by inserting after the word “action,” in line 15, the following words:- including any
144 investigatory costs.

145 SECTION 33. Chapter 30B, as so appearing, is hereby amended by striking out section
146 23 and inserting in place thereof the following:-

147 Section 23.

148 The inspector general may, pursuant to the provisions of chapter 30A, adopt, promulgate,
149 amend and rescind rules and regulations for the interpretation, administration and enforcement of
150 this chapter.