

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
65 inserting, after the words “\$10,000 or more”, in line 2, the following words: - for supplies or
66 services.

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

69 (a) Except as permitted pursuant to this section and section 7, for the procurement of a
70 supply or service in the amount of \$10,000 or greater, but not more than \$50,000, a procurement
71 officer shall prepare a written purchase description and then seek written quotations from no
72 fewer than 3 persons customarily providing the supply or service. Quotations received by the
73 procurement office shall remain sealed until after the deadline for the receipt of the quotations.
74 The procurement officer shall record: (1) the names and addresses of all person from whom
75 quotations are sought, (2) the purchase description used for the procurement, (3) the names of the
76 persons submitting quotations, (4) the quotation due date, (5) the date and dollar amount of each
77 quotation, and (6) the quotation submissions. The procurement officer shall retain all documents
78 referenced in the preceding two sentences in a manner that is consistent with section 7 of chapter
79 4(26)(h) and section 3 of this chapter. A governmental body may require that any procurement in
80 an amount of not more than \$50,000 be subject to section 5 or 6.

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

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

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

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

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

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

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

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

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

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

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

116 Unless otherwise provided by law and subject to paragraph (b), a governmental body may
117 enter into a contract for any period of time if the period of time serves the best interests of the

118 governmental body and does not conflict with any other statute; provided, however, that the
119 procurement officer shall include in the solicitation the term of the contract and conditions of
120 renewal, extension or purchase, if any.

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

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

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

133 SECTION 30. Clause (1) of subsection (e) of said section 16 of chapter 30B, as so
134 appearing, is hereby amended by striking out in lines 36 through 37, the words “at the earliest
135 opportunity; or” and inserting in place thereof the following words:- within 30 days of executing
136 each contract, unless the emergency prohibits timely submission within that time, in which case
137 the copy shall be submitted as soon as possible, to the state secretary for placement in the central
138 register; or.

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

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

146 SECTION 33. Chapter 30B, as so appearing, is hereby amended by striking out section
147 23 and inserting in place thereof the following:-

148 Section 23.

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