

LUDLOW HOUSING AUTHORITY

PROCUREMENT POLICY

Adopted by the Board of Commissioners

DATE: September 18, 2013

Amended: July 16, 2024

This procurement policy has been adopted by the Ludlow Housing Authority (LHA) in order to comply with the Massachusetts bidding statutes governing the procurement of supplies and services (MGL C. 30B) the uniform Procurement Act, construction related work (MGL c.149 §44A-H; MGL c.149 §44A½; MGL c.149 §44A¾; MGL c.149 §29; MGL c.149 §26-27A; MGL c.30 §39M), and design services (MGL c7 §38A½). This procurement policy supersedes all previous policies. This policy hereby incorporates by reference all provisions of the above-cited laws and regulations and adheres to the Code of Conduct for Public Employees, consistent with applicable state and federal laws. In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with this Procurement Policy, automatically supersede this, Policy.

Regarding Federal properties managed by the LHA, Federal procurement requirements known as 2 CFR 200.317 - 300.326, *Procurement Standards* will be adhered to, unless this policy is more restrictive.

Purpose and Scope

The purpose of this Procurement Policy ("Policy") is to provide for the fair and equitable treatment of all persons or firms involved in purchasing by the LHA; assure that supplies, services, and construction are procured efficiently, effectively, and at the most favorable prices available to the LHA; promote competition in contracting; provide safeguards for maintaining a procurement system of quality and integrity; and assure that purchasing actions are in full compliance with applicable Federal and State laws and regulations.

I. PROCURING SUPPLIES AND SERVICES

A. Procurements for supplies and services governed by MGL c.30B, the Uniform Procurement Act shall be made in the following manner:

Sound Business Practices

- (1) The Executive Director, hereinafter referred to as the Chief Procurement Officer (CPO) or his/her authorized designee shall make procurements as necessary not to exceed \$10,000.00 in the open market using sound business practices to ensure that the price obtained is the most advantageous to the LHA. Sound business practices ensure the receipt of favorable prices by periodically soliciting price lists or quotes.

Price Quotations

- (2) For the procurement of supplies and services estimated to cost between \$10,000.00 to \$50,000.00, the CPO or his/her authorized designee shall solicit written price quotations from at least three (3) vendors using a prepared written description for the procurement. However, this does not require receiving three (3) quotes. The LHA may award a contract based on one or two quotes received. The CPO must keep on file a record of all price quotations sought including names, addresses and the dates and amounts of quotations. All documents relating to purchases and contracts

under this section must be kept for a period of seven (7) years from date of final payment. **All procurements more than \$10,000.00 require a written and fully executed contract.**

Bids

- (3) **Invitation for Bids ("IFB")**. For procurements of supplies and services estimated to cost \$50,000 or more the CPO or his/her authorized designees shall use competitive sealed bids, in accordance with MGL c.30B §5 and will select the lowest, responsive and responsible bidder. The IFB process is as follows:
- Bids shall be invited by advertising in a newspaper of general circulation once and posted in MA OSD's COMMBUYS system two (2) weeks before the date specified for opening of bids.
 - IFBs may be e-mailed to all available vendors upon request; Procurements of \$100,000 or more shall also be advertised in the Goods and Services Bulletin.
 - A copy of the bid notice must be posted in a conspicuous place at the LHA (bulletin board outside of office) for at least two (2) weeks before the time specified for receipt of bids
 - A contract bid under this process shall be awarded to the lowest responsive and responsible bidder.

The CPO must keep on file with regard to every solicitation made, all documents relating to these procurements under this section and shall be kept for a period of seven (7) years from the date of final payment. This includes a copy of the solicitation, all bids received, a record of names, addresses, and the number of bids.

Proposals

4. **Requests for Proposals ("RFP")**. For procurements estimated to cost \$50,000 and obtaining a service where qualifications but not price are the determining factor, utilize the RFP process pursuant to MGL c.30B §6 vs. the IFB process identified in three (3) above. The RFP process is as follows:
- The CPO or his/her authorized designee must provide a written justification as to why it is advantageous and in the public interest to use this process.
 - Criteria must be developed for each task; (MGL c.30B §6). An Evaluation Committee must be appointed and consist of an odd number of committee members with a minimum of three (3) who are not members of the Board of Commissioners of the LHA

- Allows contract award to a proposer who has highest rating, not necessarily the lowest price; two (2) separate envelopes for both a technical and price proposal submission.
- Currently 30B does not permit use of the RFP methodology for procurements estimated to cost less than \$50,000. The RFP methodology for procurements less than \$50,000 may be used if permitted by future 30B legislation amendments.

(5) Statewide Contract List, or Other Cooperative Purchasing Agreements

For goods and services awarded by the State's Operational Services Division (OSD), the CPO or his/her authorized designee may purchase from a statewide contract vendor without any further solicitation or invitation to bid regardless of the dollar amount.

- (6) Contracts in (2) and (3) above may be entered into for a term greater than three (3) years including renewals, extensions, or options, except automated laundry or elevator services which shall be for a term voted by a majority of the Board before the procurement is made but shall be no greater than ten (10) years.
- (7) If the purchase is made from any vendor other than one offering the lowest price on an IFB procurement, justification for such a bid rejection shall be in writing and kept with the bid documents.
- (8) For contracts in (5) above, the CPO or his/her designee must use the order/contract forms or instructions from either OSD.

B. Services Exempt from MGL c.30B

- (1) In accordance with MGL c.30B §1(b)(9), a contract to purchase supplies or services from, or to dispose of supplies to, any agency or instrumentality of the federal government, the commonwealth, or any of its political subdivisions is exempt from Chapter 30B procurement requirements.
- (2) In accordance with MGL c.30B §1(b)(15), contracts with labor relations representatives, lawyers, designers, or certified public accountants are exempt from 30B procurement requirements. For legal services, the LHA shall use the EOHLC Agreement for Legal Services. For CPA consultants, see EOHLC Accounting Manual. For Design Services, consult with the LHA/EOHLC project manager.
- (3) In accordance with MGL c.30B §1(b)(17), a contract for the collection, transportation, receipt, processing or disposal of solid waste, recyclable to combustible materials.

C. Emergency Procurements Under MGL c.30B

If the time required to comply fully with Chapter 30B regulations would endanger the health or safety of people or property due to an unforeseen emergency, the needed supply or service may be procured without complying with the Chapter 30B requirements. To the extent possible, the LHA must maintain a record of each emergency procurement, document the basis for determining an emergency exists, name of vendor, amount, type of contract and list of supplies and services purchased under each contract. The LHA may not artificially create an emergency by postponing normal purchases. An emergency procurement form must be submitted as soon as possible to the Goods and Services Bulletin for publication. This process cannot be used for construction related emergency procurements.

D. Sole Source Procurements Under MGL c.30B

- (1) The LHA may make a sole source procurement of any supply or service under \$50,000.00 when a reasonable investigation shows that there is only one practicable source for the required supply or service. This determination that only one practical source exists must be in writing. (Chapter 30B, Section 7)
- (2) The LHA may make a sole source procurement greater than \$50,000.00 for software maintenance after a reasonable investigation shows that there is only one practicable source for the required supply or service. This determination that only one practical source exists must be in writing.

E. Contract Funding

All procurement of equipment, materials, and non-personnel services shall be documented. Expenditures shall be supported by receipts and shall be made by standard purchase order. Each purchase, regardless of dollar amount, shall be approved by the CPO or his/her designee. On a monthly basis, in advance, the Executive Director shall determine the amount of dollars in each program available in order to have sufficient funds available for payment. Purchase orders shall be filled with the resulting purchase documents.

II. CONSTRUCTION CONTRACTS BUILDING RELATED - VERTICAL CONSTRUCTION

When construction contracts are procured under the following methods, the LHA shall apply prevailing wage rates in accordance with MGL 149 §26-27A regardless of dollar amount. All construction contracts in the amount of \$25,000.00 or more shall require a payment bond and performance bond in an amount not less than one hundred percent (100%) of the contract price, in accordance with EOHLC requirements. This requirement cannot be waived and letters of credit, checks or bank books cannot be accepted in lieu of a payment bond. The LHA shall use the appropriate EOHLC Front-end documents for all projects utilizing capital funds or assigned an EOHLC FISH #s (FISH - Financial Information Systems for Housing), Construction

related service contracts do not require use of the EOHLC front-end documents, but use is encouraged when feasible to do so.

All construction projects expended through capital funds require an EOHLC FISH # by contacting the EOHLC Project Manager. For all construction projects utilizing capital funds and assigned a FISH number, the appropriate EOHLC Front-End Document shall be used.

- A. For small building, related construction contracts which include labor and materials estimated to cost less than \$25,000.00 the CPO or his/her authorized designee shall follow MGL 149 §44A(2)(A) and use sound business practices in selecting the contractor and a record should be kept of the procurement recording, at minimum, the name and address of the contractor.
- B. For building related construction contracts which include labor and materials estimated to cost between \$25,000.00 and \$50,000.00 the CPO and/or designee must follow MGL 149 §44A(2)(B) procedures and solicit written responses from at least three (3) contractors through public notification of the contract at least two (2) weeks before the deadline for receiving responses. Public notification includes posting on the LHA website, in a conspicuous place (bulletin board outside the office), in COMMBUYS, and in the Central Register. A contract may be awarded under the basis of receiving one or two quotes. The contract must be awarded to the eligible and responsible contractor offering to fulfil the contract at the lowest price. The CPO or designee shall keep on file a record of all price quotations including names, addresses, and the amounts of quotations. All documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from the date of final payment.
- C. For construction contracts estimated to cost between \$50,000.00 and \$150,000.00 the CPO or his/her authorized designee shall follow the sealed bid procedure of MGL 149 §44A (2)(c) identified in MGL c.30 Sec39M: Bids shall be invited by advertising in the Central Register, advertising in a newspaper of general circulation once, posted in COMMBUYS, posted on the LHA website, and in the LHA's office in a conspicuous place two (2) weeks before the date specified for the opening of bids. The following must also be completed:
 - Bidders must submit a five (5) percent bid deposit with their bids in the form of a certified treasurer's or cashier's check from a responsible bank or trust company, cash, or bid bond from a surety company
 - Bids are publicly opened and read at the time they are due and a contract bid under this process shall be awarded to the lowest eligible and responsible bidder.

- A payment bond and performance bond in the full amount of the contract price from a surety company must be furnished by the selected contractor.
 - The selected contractor must be DCAMM certified for contracts greater than \$100,000.00.
- D. For construction contracts estimated to cost \$150,000.00 to \$10,000,000.00 (contracts for the construction, demolition, maintenance, or repair of a building - vertical construction) the CPO or his/her authorized designee shall follow the sealed bid procedures required under MGL 149 §44A-M. These contracts require prevailing wage rates or, if a federal project, Davis Bacon Wage Rates and require a performance and payment bond in the full amount of the contract price.
- The CPO must keep on file with regard to every solicitation made all documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from the date of final payment. A copy of bid forms received, a record of names, addresses, and the amounts of bids (tabulation). Other requirements include the following:
 - Filed sub-bids for selecting certain subcontractors on public construction contracts estimated to cost more than \$150,000 when sub-bid work estimated to cost more than \$25,000.00
 - Contractors and subcontractors submitting bids estimated to cost more than \$100,000.00 must be certified by Division of Capital Asset Management and Maintenance (DCAMM) to be evaluated and certified for specific requirements relating to financial soundness and past performance.
 - Bidders and sub-bidders must submit a five (5) percent bid deposit with their bid and sub-bids.
- E. For construction contracts estimated to cost \$10,000,000 or more (contracts for the construction demolition, maintenance, or repair of a building - vertical construction) the CPO or his/her authorized designee shall follow the pre-qualification process and sealed bid procedures required under MGL c.149 §44D ½ and MGL c.149 §44D ¾.

III. NON-BUILDING RELATED CONSTRUCTION, HORIZONTAL CONSTRUCTION & CONSTRUCTION MATERIALS

When a non-building related construction, horizontal construction or construction materials contract is under consideration, contact the EOHLC project manager for an EOHLC Front-End assigned FISH # if utilizing capital funds.

When non-building construction contracts with a labor component are procured under the following methods, the LHA shall apply prevailing wage rates in accordance with MGL c.30 §39M regardless of the dollar amount. All non-building construction contracts with a labor component in the amount of \$25,000 or more shall require a payment bond and performance bond in an amount not less than one hundred percent (100%) of the contract price, in accordance with EOHLC requirements. This requirement cannot be waived and letters of credit, checks or bank books cannot be accepted in lieu of a payment bond. The LHA shall use the appropriate EOHLC Front End Documents for all projects utilizing capital funds or assigned an EOHLC FISH #. Non-Building Construction related service contracts do not require use of the EOHLC Front-End Documents, but use is encouraged when feasible to do so.

- A. For non-binding, related construction contracts which include labor estimated to cost less than \$25,000.00, the CPO or his/her authorized designee shall follow MGL c.30 §39M and use sound business practices in selecting the contractor and a record should be kept of the procurement recording, at minimum, the name and address of the contractor.
- B. For non-binding, related construction contracts which include labor estimated to cost between \$25,000 and \$50,000 the CPO and/or designee must follow MGL c. 30 39M procedures and solicit written responses from at least three (3) contractors through public notification of the contract at least two (2) weeks before the deadline for receiving responses. Public notification includes posting on the LHA website, in a conspicuous place near the LHA main office (the bulletin board outside the office), in COMMBUYS, and in the Central Register. A contract may be awarded on the basis of receiving one or two quotes. The contract must be awarded to the eligible and responsible contractor offering to fulfil the contract at the lowest price. The CPO or designee shall keep on file a record of all price quotations including names, addresses, and the amounts of quotations. All documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from date of final payment.
- C. For non-building construction contracts with a labor component estimated to cost greater than \$50,000, the CPO or his/her designee shall follow the sealed bid procedure of MGL c.30 39M. Bids shall be invited by advertising in the Central Register, advertising in a newspaper of general circulation once, posted in

COMMBUYS, posted on the LHA website, and in the LHA's office in a conspicuous place two (2) weeks before the date specified for the opening of bids. The following must also be completed:

- Bidders must submit a five (5) percent bid deposit with their bids in the form of a certified treasurer's or cashier's check from a responsible bank or trust company, cash, or bid bond from a surety company.
- Bids are publicly opened and read at the time they are due, and a contract bid under this process shall be awarded to the lowest eligible and responsible bidder.
- A payment bond and performance bond in the full amount of the contract price from a surety company must be furnished by the selected contractor.
- MA DOT prequalification is required if the contract is funded with State Aid under MGL c.90 §34.

For public works construction, i.e., site work (horizontal construction) for the purchase of construction materials with no labor component, the CPO or his/her designee shall follow the following procedures under MGL c.30 §39M and use the appropriate EOHLC Construction Front-End documents.

- (1) For non-building related construction material contracts estimated to cost less than \$25,000.00, the CPO or his/her authorized designee shall follow MGL c.30 §39M and use sound business practices in selecting the contractor and a record should be kept of the procurement recording, at minimum, the name and address of the contractor. The LHA also has the discretion to utilize MGL c. 30B §5 procurement requirements. All contracts for construction materials greater than \$25,000.00 require a payment bond in the full amount of the contract price.
- (2) For non-binding, related construction material contracts estimated to cost between \$25,000.00 and \$50,000.00, the CPO and/or designee must follow MGL c.30 §39M procedures and solicit written responses from at least three (3) contractors through public notification of the contract at least two (2) weeks before the deadline for receiving responses. Public notification includes posting on the LHA website, in a conspicuous place near the LHA main office (on the bulletin board outside the office), in COMMBUYS, and in the Central Register. A contract may be awarded on the basis of receiving one or two quotes. The contract must be awarded to the eligible and responsible contractor offering to fulfil the contract at the lowest price. The CPO or designee shall keep on file a record of all price quotations including names, addresses, and the amounts of quotations. All documents relating to purchases and contracts under this section shall be kept for a period of seven (7)

years from the date of final payment. The LHA also has the discretion to utilize MGL c.30B §5 procurement requirements. All contracts for construction materials greater than \$25,000 require a payment bond in the full amount of the contract price.

(3) For non-building construction contracts with a labor component estimated to cost greater than \$50,000.00, the CPO or his/her authorized designee shall follow the sealed bid procedure of MGL c.30 §39M. Bids shall be invited by advertising in the Central Register, advertising in a newspaper of general circulation once, posted in COMMBUYS, posted on the LHA website, and in a conspicuous place in the LHA's office (on the bulletin board outside of the office) two (2) weeks before the date specified for the opening of bids. The following must also be completed:

- Bidders must submit a five (5) percent bid deposit with their bids in the form of a certified treasurer's or cashier's check from a responsible bank or trust company, cash, or bid bond from a surety company.
- Bids are publicly opened and read at the time they are due and a contract bid under this process shall be awarded to the lowest eligible and responsible bidder.
- A payment bond in the full amount of the contract price from a surety company must be furnished by the selected contractor.

IV THE BOARD

- A. The CPO shall submit all bids and quotes greater than \$25,000.00 at the next regular meeting and the Board must vote to authorize the award of the bid.
- B. A CPO may not solicit or award a contract for a term greater than five (5) years, including renewals, extensions, or options. The exception to this rule is for automated laundry or elevator services which shall be for a term of not more than 10 years and voted by the Board.
- C. A written contract is required for supply and service procurements greater than \$10,000.00.
- D. Applicable rules established by the Executive Office of Housing and Livable Communities and the Inspector General shall be adhered to. These procedures and any changes thereto will be submitted to the Board for approval.
- E. Lack of competition is permissible only when an emergency exists which permits no delay because of the possibility of injury, loss of life, or destruction of property, or when only one course of supply is available and the CPO or his/her designee shall so certify. For the purposes of emergency situations involving construction related work, a DCAMM waiver shall be required. For supplies and services, Chapter 30B emergency procedures are to be followed.

V. DELEGATION OF PROCUREMENT OFFICER'S POWER AND DUTIES

As this relates to MGL c.30B procurements, the CPO may delegate his powers and duties in accordance with this section to one or more employees of the LHA. A delegation shall be in writing, be signed by the CPO, and state the activity or functions authorized and the duration of the delegation. A delegation may be in specific or general terms, may be limited to a particular procurement or class of procurements, and may be conditioned upon compliance with specified procedures. A delegation may be revoked or amended whenever the CPO determines that revocation or amendment is in the best interests of the governmental body. A delegation of power or duties by a procurement officer and any revocation or amendment thereof shall not take effect until a copy of the same has been filed with the office of the Inspector General.

VI. ETHICS IN PUBLIC CONTRACTING

The LHA shall adhere to the following code of conduct, consistent with applicable State or local law.

Conflicts of Interest

No employee, officer or agent of this LHA shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. If any real or apparent conflict of interest arises, the employee, officer, or agent of the LHA shall immediately recuse oneself from the selection, award or administration process and notify the Executive Director. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

- An employee, officer or agent involved in making the award;
- Any member of his/her immediate family;
- His/her partner; or,
- An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

Gratuities, Kickbacks, and use of Confidential Information

LHA officers, employees or agents shall not solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts, and shall not knowingly use confidential information for actual or anticipated personal gain.

Prohibition against Contingent Fees

Contractors shall not retain a person to solicit or secure an LHA contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees or bona fide established commercial selling agencies.

LHA Vendors/Contractors for Personal Business

No LHA officers, employees or agents involved in the procurement process shall use vendors or contractors that regularly conduct business with the LHA for their own personal use or business. This is to ensure to the general public that no conflict, real or apparent, exists.

To view a Construction Bidding Summary for Building Related work - MGLc.140 §44A-M see attached addendum.

CONSTRUCTION BIDDING SUMMARY

BUILDING RELATED WORK - MGL C.149 § 44A-M

TYPE OF WORK	BIDDING PROCEDURES
Vertical Construction - Building related work, labor & materials, labor only, estimated cost to less than \$25,000.	Sound business practices. Prevailing wages to apply for all contracts regardless of dollar amounts.
Vertical Construction - Building related work, labor & materials, labor only, estimated to cost between \$25,000 and \$50,000	Solicit written responses through public notification process in accordance with MGL c.149, § 44A(2)(b). Notice shall include a scope of work statement defining the work to be performed and work requirements. Apply for prevailing wages.
Vertical Construction - Building related work labor and materials estimated to cost between \$50,000 = \$150,000.	Public competitive sealed bids in accordance with MGL c.149 § 44A(2)(c). No DCAMM certification or filed sub-bids required. Apply for prevailing wages. 5% bid deposit required. Full performance and payment bonds are required if cost is estimated over \$25,000. DCAMM certification required if over \$100,000; no filed sub-bids.
Vertical Construction - Building related work labor and materials estimated to cost between \$150,000 and \$10,000,000.	Public bid in accordance with MGL c.149, § 44A(2)(d), GC must be DCAMM certified and 100% Performance and payment bonds required for GC. Filed sub-bids required if estimated greater than \$25,000 and performance and payment bonds at the request of GC. General's and subs must provide a 5% bid deposit with its bid. DCAMM Certification for Generals and Subs.

TYPE OF WORK	BIDDING PROCEDURES
Vertical Construction - Building related work labor and materials estimated to cost \$10,000,000.00	Public bid in accordance with MGL c.149, § 44(D1/2) and 44 (D3/4). AA Must pre-qualify General's and Filed Subs via RFQ before advertising for bids; AA must establish a pre-qualifications committee; GCs and Subs must be DCAMM certified; 100% Performance and payment bonds required for the GC and AA must require for Subs in RFQ. Filed Sub-bids required if estimate greater than \$25,000.
Horizontal Construction - Non-building related construction work estimated to cost \$0 to \$25,000 including labor and materials.	Use Sound Business Judgement - Wage Rates required.
Horizontal Construction - Non-building related construction work estimated to cost \$25,000 to \$50,000 including labor and materials.	Written scope of work and solicit from three (3) contractors. Wage Rates required. Advertise in Central Register, COMMBUYS, website, and post in conspicuous place near office for at least two (2) weeks prior to bid opening. Contracts \$25,000 or more require a payment bond and performance bond in full amount of contract. Certificates of Insurance which comply to specification.
Horizontal Construction - Non-building related construction work estimated to cost greater than \$50,000 including labor and materials.	Sealed bidding, advertise in newspaper of general circulation and post notice at LHA website and office area and COMMBUY for at least two (2) weeks prior to bid opening; Wage Rates required when labor involved. 5% bid deposit required. 100% Performance and Payment bonds.
Purchase of construction/building related materials - No Labor estimated to cost between \$0 to \$25,000.	Use Sound Business Judgement MGL c. 30B § 5 procurement procedures optional.
Purchase of construction/building-related materials - No Labor greater than \$25,000 but less than \$50,000.	Written scope of work and solicit from three (3) contractors, advertise in Central Register, COMMBUYS, website, and conspicuous place near office for at least two (2) weeks. Contracts \$25,000 or more require a payment bond in full amount of contract. c30B § 5 procurement procedures optional.