Construction Bidding Basics

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The Attorney General’s Bid Unit

- Respond to bid law questions
- Conduct investigations/hearings
- Public education
- Bid Protest Decisions on our website:  
  http://www.bpd.ago.state.ma.us
Major Public Bidding Laws

M.G.L. c. 149

M.G.L. c. 30, §39M

M.G.L. c. 7C, §§ 44-57

M.G.L. c. 149A
M.G.L. c. 30, §39M

• public works projects estimated to cost $10,000 or more

M.G.L. c. 149A
• CM at Risk
• Design Build
• Over $5 million
Building

- construction, reconstruction, installation, demolition, maintenance or repair
- on a building (a structure with four walls and a roof)
- estimated to cost $10,000 or more
Public Building Construction Law
(M.G.L. c. 149, §§44A-M)

Procedure
$150,000 or more
Invite sealed bids
Advertise: local newspaper, Central Register, and your bulletin board or website
5% bid deposit
100% payment bond
100% performance bond
DCAM certification for generals and filed subs
Pay prevailing wage
Filed Sub-bids
Requirements

- Must be a building project under M.G.L. c. 149, except a modular building
- Entire project must be worth over $150,000
- Estimated cost of filed sub-bid is more than $25,000. Good faith estimate
- Sub-bid falls into statutory classification
<table>
<thead>
<tr>
<th>Statutory Classifications</th>
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<tr>
<td>• Roofing &amp; flashing</td>
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<tr>
<td>• Waterproofing, damproofing and caulking</td>
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<td>• Lathing &amp; plastering</td>
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<tr>
<td>• Marble</td>
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<tr>
<td>• Terrazzo</td>
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<tr>
<td>• HVAC</td>
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<td>• Painting</td>
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<td>• Masonry</td>
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<td>• Sprinkler fitter [FP]</td>
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<tr>
<td>• Glass &amp; glazing</td>
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<td>• Plumbing</td>
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<td>• Electrical</td>
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<tr>
<td>• Elevators</td>
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<tr>
<td>• Metal windows</td>
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<tr>
<td>• Misc. and ornamental iron</td>
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<tr>
<td>• Acoustical tile</td>
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<td>• Resilient floors</td>
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Certification

- Filed sub-bidders must be DCAM-certified if the project is worth more than $150,000 and the sub-bid is worth more than $25,000
DCAM certification

• Must have certification even if you bid lower than the thresholds
• Owner may ask for DCAM certification even if the project is less than $150,000
• If prime certification is needed, filed sub-bid certification will not be accepted
DCAMM Cert. Requirements

- One year in business
- Licensed
- Three successful projects in the last 3 years, minimum $20,000
- Financial stability
- Resume’s of principals and management
Relationship to G.C.

- General contractors do not get to choose their own filed sub-contractors in the first instance.
- Filed sub-bids are first considered by the awarding authority.
- Filed sub-bidders can restrict their bids to certain general contractors.
- Responsible and eligible filed sub-bidders are placed on a tabulation sheet that is sent to the general contractors.
- General contractors must choose from the tabulation sheet. General contractors do not have to list the lowest filed sub-bidder in their bids.
Awarding Authority Classification

• An awarding authority may ask DCAM to establish another filed sub-bid category for a particular project
Predominant work

• If the predominant work of the project is a filed sub-bid category, the work may be included as part of the main construction contract and need not be a filed sub-bid

• Prime DCAMM certification is needed
Public Works (Non-Building) (M.G.L. c. 30, § 39M(d))

Applies to:

- Construction, reconstruction, alteration, remodeling, or repair of any **public work** estimated to **cost** between $10,000 to $24,999
- Procedure: Use a M.G.L. c. 30B, § 5 Invitation for Bids
- Sealed bids, advertise once in local newspaper, Central Register, post notice on website or bulletin board,
- No bid deposit
- Prevailing wage is to be paid.
Construction, reconstruction, alteration, remodeling, or repair of any public work estimated to cost $10,000 or more.

Procedure:
sealed bids / advertising newspaper, Central Register and posting a notice
50% payment bond, if over $25,000
5% bid deposit and prevailing wage
M.G.L. c. 30, sec. 39m Tips

- No statutory bid form, unlike 149
- But bid must contain non-collusion language, pains and penalties of perjury
- Develop standard 30, 39M bid form
- Use to purchase construction materials
  
  See I.G.’s Procurement Bulletin, 6/12
- Blanket and OSD contracts