

DONOVAN

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Filed Sub-Bids

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Donovan Hatem LLP

Boston | New York | New Jersey | Rhode Island

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M.G.L. c. 149, § 44A et seq.

M.G.L. c. 149 – BUILDING CONSTRUCTION CONTRACTS

Estimated Contract Amount	Under \$10,000	\$10,000 to \$50,000	Over \$50,000 to \$150,000	Over \$150,000	Over \$10,000,000
Procurement Procedure	Sound business practices (as defined in M.G.L. c. 30B, § 2). ¹	Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work.	Sealed bids (using M.G.L. c. 30, § 39M).	Sealed bids (using M.G.L. c. 149, §§ 44A – 44J).	Solicit statements of qualifications prior to soliciting sealed bids (using M.G.L. c. 149, §§ 44A – 44J).
Notice/Advertising Requirements	None.	Post a notice at least two weeks before responses are due on 1) your jurisdiction's website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. ²	Post a notice 1) in your jurisdiction's office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ³	Post a notice 1) in your jurisdiction's office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ⁴	Advertise the request for qualifications at least two weeks before responses are due (1) in a newspaper; (2) in the <i>Central Register</i> ; and (3) on COMMBUYS. ⁵
DCAMM Certification	No.	No.	No.	Yes. General bidders if more than \$150,000 and filed sub-bidders if more than \$25,000.	Yes. General bidders if more than \$150,000 and filed sub-bidders if more than \$25,000.
OSHA Training	No.	Yes.	Yes.	Yes.	Yes.
Prequalification	No.	No.	No.	Optional. ⁶	Yes.
Filed Sub-bids	No.	No.	No.	Yes, if more than \$25,000.	Yes, if more than \$25,000.
Bid Deposit	No.	No.	5% of the value of the total bid.	5% of the value of the total bid or sub-bid.	5% of the value of the total bid or sub-bid.
Payment Bond	No.	50% payment bond if contract is >\$25,000. ⁷	50% payment bond.	100% payment bond.	100% payment bond.
Performance Bond	No.	No.	No.	100% performance bond.	100% performance bond.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.	Yes.
Contractor Evaluation	No.	No.	No.	Yes.	Yes.
OSD or Blanket Contract Option	Yes.	Yes.	No.	No.	No.

Filed Sub-Bids in Short

- 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 Trade Contractors, § 44F

Specifications and plans shall have separate sections for each of the following classes of work:

(a) Roofing and Flashing, (b) Metal Windows, (c) Water-Proofing, Damp-Proofing, and Caulking, (d) Miscellaneous and Ornamental Iron, (e) Lathing and Plastering, (f) Acoustical Tile, (g) Marble, (h) Tile, (i) Terrazzo, (j) Resilient floors, (k) Glass and Glazing, (l) Painting, (m) Plumbing, (n) HVAC, (o) Electrical, (p) Elevators, (q) Masonry Work, (r) Fire Protection Sprinkler System, and (s) any class of work for which the awarding authority deems it necessary or convenient to receive sub-bids.

Form for Sub-Bid, § 44F

To all General Bidders Except those Excluded:

A. The undersigned proposes to furnish all labor and materials required for completing, in accordance with the hereinafter described plans, specifications and addenda, **all the work specified in Section No. _____ of the specifications and in any plans specified in such section, prepared by**

_____ for _____ in
(name of architect or engineer)(project)

_____, Massachusetts, for the contract
(city or town)

sum of _____ dollars (\$_____).

For Alternate No. _____; Add \$_____ Subtract \$_____

Repeat preceding line for each alternate]

B. This sub-bid includes addenda numbered _____

C. This sub-bid

may be used by any general bidder except:

may only be used by the following general bidders:

DCAMM SUB-SUB-BID

ELECTRICAL

- Computer Wiring
- Lightning Protection
- Security/TV Systems
- Sound Systems

HVAC

- Balancing
- Chemical Treatment
- Duct Insulation
- Pipe Covering
- Sheet metal (Ductwork)
- Temperature Controls

PLUMBING

- Pipe Covering

What is the extent of the trade contractor's SOW?

John F. Miller Co., Inc. v. George Fichera Constr. Corp., 7 Mass.App.Ct. 494 (1979)

What is the extent of the trade contractor's SOW?

A plumbing subcontractor on a state aided project had a greater justification for not looking outside the “Plumbing” Specification especially where it was business custom that a carpentry union provide installation of certain toilet Accessories.

Lesson Learned

Whether a trade contractor is responsible for work in another specification/drawing depends on: 1) the obviousness of the omission, error or discrepancy; and, 2) business custom.

Contact Information

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