

Disposal of Surplus Supplies and Use of Proprietary Specifications

Trash to Treasure

Weston, MA

December 5, 2018



Learning Objectives

- Know the law related to disposing of surplus supplies
- Understand how to put together a furniture, fixtures and equipment bid without using proprietary specifications

Chapter 30B

- Chapter 30B applies to:
 - Procurement of supplies and services
 - Disposal of surplus supplies
 - Acquisitions and dispositions of real property and interests in real property...by a governmental body

Chapter 30B

- Governmental Body:
 - Cities & towns (including boards, commissions, agencies, authorities and departments)
 - Counties
 - Districts
 - Regional school districts

Procurement Thresholds

Effective November 7, 2016

More than \$50,000

Advertised, Sealed
Bids or Proposals

\$10,000 — \$50,000

Solicit Three
Written Quotes

Less than \$10,000

Sound Business Practices



Tangible Supply; Disposition

Chapter 30B, § 15

- A governmental body shall dispose of a tangible supply, no longer useful to the governmental body but having resale or salvage value, in accordance with this section.*

* This section does not apply to the disposal of real property.



Tangible Supply; Disposition

- If the resale or salvage value is \$10,000 or more, the governmental body shall offer such supply through competitive sealed bids, public auction, or established markets.



Tangible Supply; Disposition

- Notice of sale by bid or auction shall conform to the advertising procedures set forth in paragraph (c) of section five (Invitation for Bids)



Tangible Supply; Disposition

- Where to advertise
 - In a local newspaper at least two weeks before bid due date or auction date,
 - In a conspicuous location in or near your jurisdiction's offices for at least two weeks prior to the bid opening date.
 - If your jurisdiction has an official bulletin board...post the notice there.
 - Jurisdiction website complies with requirement

Tangible Supply; Disposition

- Where to advertise
 - In the COMMBUYS system administered by the Operational Services Division
 - If the surplus supplies' value is more than \$100,000, advertise in the *Goods and Services Bulletin*

Tangible Supply; Disposition

- The notice shall:
 - Indicate the supplies offered for sale,
 - Designate the location and the method for inspection of such supplies,



Tangible Supply; Disposition

- The notice shall:
 - State the terms and conditions of sale including:
 - The place, date and time for the bid opening or auction,
 - The rule for award, and
 - State that the governmental body retains the right to reject any and all bids.

Tangible Supply; Disposition

- If the governmental body rejects the bid of the highest responsive bidder, the governmental body may:
 - **Negotiate** (with anyone) a sale of such supply so long as the negotiated sale price is higher than the bid price;
or
 - **Resolicit bids**

Tangible Supply; Disposition

- A procurement officer may trade-in a supply listed for trade-in in the invitation for bids or request for proposals



Tangible Supply; Disposition

- For a supply with an estimated net value of less than \$10,000, the procurement officer shall dispose of such supply using written procedures approved by the governmental body.

Tangible Supply; Disposition

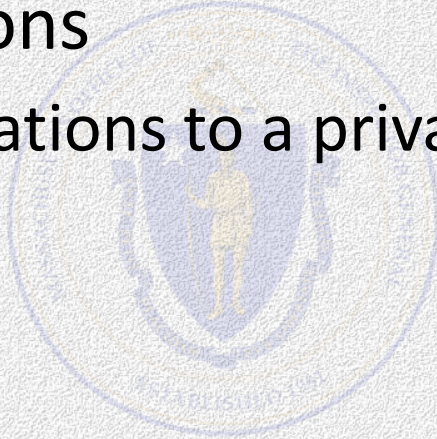
- Furniture depreciates over 7 years
- Local rules may require obtaining quotes for disposal of scrap furniture

Tangible Supply; Disposition

- Charitable donations
 - Majority vote of Governmental body
 - Unless otherwise prohibited by law
 - At less than the fair market value
 - To a charitable organization which has received a tax exemption from the United States by reason of its charitable nature

Tangible Supply; Disposition

- Charitable donations
 - In most cases donations to a private non-profit are not allowed.
 - 501(c)(3) only



Tangible Supply; Disposition

- Consider intragovernmental agreements or intergovernmental agreements



Tangible Supply; Disposition

- Consider OSD contracts



Proprietary Specifications

- Procuring furniture, fixtures and equipment and the purchase description



Proprietary Specifications

- Cite a specific brand name, OR
 - Are written so restrictively that it has the effect of limiting the procurement to one product
 - Permitted by Chapter 30B only when no other manner of description will suffice

Proprietary Specifications

- If you use proprietary specifications, you must provide a written justification for your decision and keep this document in your procurement file.
M.G.L. c. 30B, § 14.

Proprietary Specifications

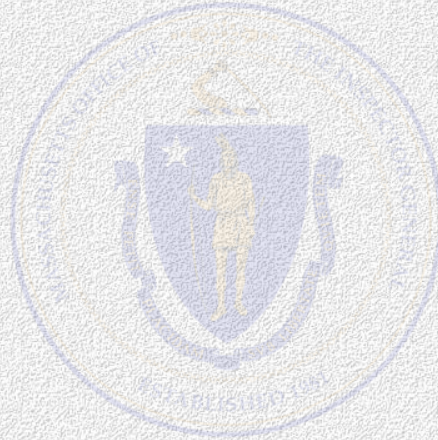
- “Or equal” specifications use a brand name as shorthand or a proprietary design feature followed by the phrase “or equal”
 - Specify what characteristic of the brand name or proprietary design feature must be equaled

Proprietary Specifications

- Use clear, sound and objective reasons for determining whether or not a product is equal



- Questions?



Contact Information

- M.G.L. c. 30B questions
 - (617) 722-8838 (phone)
 - (617) 723-2334 (fax)
 - 9:00 a.m. to 4:30 p.m., M—F
 - www.mass.gov/ig
 - 30BHotline@state.ma.us

