

# Maintenance and Repair Services Contract Template

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## USER GUIDE

Regional Capital Assistance Team

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## INTRODUCTION

This User Guide provides guidance to Local Housing Authorities (LHAs) on how to prepare bidding documents for procuring Maintenance and Repair Service Contracts. The Regional Capital Assistance Teams (RCAT) have developed several Maintenance and Repair Service Contract Templates, specific to individual trades, that should be used to create and procure the desired contract.

The primary focus of each template is for **specific** Maintenance and Repair Services Contracts that fall under the procurement requirements of M.G.L. c. 149, §§ 44A-44J or M.G.L. c. 30, § 39M.

The information contained in this publication represents our understanding of the current laws, regulations and policies regarding procurement of maintenance and repair service contracts. These laws, regulations and policies are always subject to change and the reader is responsible for ensuring that all information is current before proceeding on an issue and should not rely solely on the information contained herein.

## APPLICABLE PROCUREMENT LAW

M.G.L. c. 149, §§ 44A-44J, governs contracts for the construction, reconstruction, installation, demolition, maintenance or repair of a building. M.G.L. c. 30, § 39M governs contracts for construction, reconstruction, alteration, remodeling or repairs to site work or other infrastructure, that do not include work on a building.

Local Housing Authorities are responsible for compliance with applicable construction law requirements. Information concerning specific M.G.L. c. 149 and c. 30, § 39M construction requirements may be found in the Office of the Inspector General's Public Procurement Charts at: [www.mass.gov/ig/publications/guides-advisories-other-publications/procurement-charts-november-7-2016.pdf](http://www.mass.gov/ig/publications/guides-advisories-other-publications/procurement-charts-november-7-2016.pdf).

Generally speaking, M.G.L. c. 149 is utilized for contracts with maintenance/repair to a building (vertical construction) and M.G.L. c. 30, § 39M is for contracts pertaining to site work (horizontal construction). It is the responsibility of the Authority to determine whether the maintenance work includes construction as defined by M.G.L. c.149 or M.G.L. c.30, §39M.

## GETTING STARTED

The primary focus of each template is for **specific** Maintenance and Repair Services Contracts that fall under the procurement requirements. Specifically, contracting with Contractors who provide construction, reconstruction, alteration, installation, demolition, maintenance and/or repair services and, if needed, associated materials. *Please make sure that the Maintenance and Repair Services Contract template you are using is for the correct trade.*

This User's Guide and all available Maintenance and Repair Services Contract templates are available for download on any one of the three RCAT websites listed below.

Northeast <http://www.rcatnortheast.com/Home.aspx>

Central-West <http://ncmhousing.org/RCAT.php>

Southeast <http://rcat.tauntonhousing.com/Home.aspx>

All templates were created in Microsoft Word and are password protected with fillable fields. Edit the fillable fields to reflect your Authority's information. Please contact your RCAT Project Manager for assistance if you experience any difficulties.

These step-by-step instructions for the Maintenance and Repair Service Contract Template will ensure your contract is done efficiently, cost-effectively and according to the applicable statutes, rules and regulations from start to finish, including:

- Prepare contract documents including Scope of Work
- Compile a bid package
- Solicit bids for contract
- Review and determine lowest responsible and responsive bidder
- Execute contract
- Obtain bonds (if applicable) prior to issuing notice to proceed with the work
- Maintain a contract record

A consolidated summary of this Guide, "Checklist for Implementing a Maintenance and Repair Services Contract from Beginning to End," is available at the end of this document for easy future reference.

## STANDARD FRONT-END

The standard front-end documents explain to the bidders the general terms and conditions that will apply if the bidder is selected for the job, such as insurance requirements, Occupational Safety and Health Administration (OSHA) requirements, preparation and submission of quotes, and bond requirements. In addition, the front-end documents include the Public Notification for Written Quotes which is the primary solicitation for the Maintenance and Repair Service Contract.

The Standard Front End is already included in the Contract Template. It contains fillable fields that require Authority input \*(name, properties, estimated contract amount, bid deadline, etc.). The remaining language in the standard front end includes State requirements that are not intended to be modified. This front end, once completed, should be attached to the current Prevailing Wage Rates to complete the Bid Package.

*If your Contract is intended for a Federal property, attach Supplementary Federal Property Requirements as Appendix B.*

\*Note: The RFQ # on the title page is created by using the DHCD-assigned "LHA #" for your Authority PLUS the Issue Date of the RFQ. For example: Taunton LHA # = 293 + RFQ Issue Date = 10/23/18. Therefore, the RFQ# = 293102318. This will ensure that all service contracts will have a unique nine-digit number for easy reference.

## ESTABLISHING CONTRACT VALUE

Solicitations require the awarding Authority to provide a cost estimate for the full value of the contract in the Public Notification.

It is recommended practice to procure Maintenance and Repair Services Contracts for a period of ONE (1) Year in duration with the option to renew for TWO (2) additional one-year periods, for a maximum total of three (3) years. Therefore, the potential full value of a Maintenance and Repair Services Contract is the TOTAL of all THREE years of the Contract. The renewal of any consecutive year is at the sole discretion of

the Authority. The contract price for each year should be equal to the pricing established on the Bid Form for Year One. This should include a fixed price for recurring services/inspections and an estimate for repairs based on proposed per/hour cost and estimated number of hours a year, provided by LHA.

Most estimates are fairly easy to obtain by averaging the prior costs associated with that trade/contract for the last several years. Example: the annual average amount spent on fire alarm testing for the last 3 years = \$4,500/year. The estimate for the full contract value would be \$4,500 x 3 Years = \$13,500 (Year 1, possible renewal Year 2, possible renewal Year 3).

## COMPILING A BID PACKAGE

Select the appropriate Maintenance and Repair Services Contract Template for the trade you need (i.e. elevator maintenance or fire alarm testing). All Templates are available at each of the three RCAT websites and consist of the following:

- Standard Front End; and
- Scope of Services for Specific Trade

Authorities should carefully review the scope of services template, and ensure it is appropriate for their LHA. Once the front end is completed, the Authority is responsible for obtaining and attaching Prevailing Wage rates to each front end as Appendix "A".

- NOTE: Please contact your RCAT Project Manager if you require assistance with obtaining wages. Prevailing Wages **must** be attached to the front end.

Authorities with Federal Properties will also need to attach Supplementary Federal Requirements as Appendix "B".

- NOTE: Please contact your RCAT Project Manager if you require assistance with Federal Requirements.

## SCOPE OF SERVICES

The Scope of Services is specific to the type of contract needed (Electrical, Plumbing, etc.). It contains the specific requirements of the Contract including, but not limited to:

- Existing conditions (i.e. number of buildings, units, list of components and/or model numbers).
- Detailed expectations for the contract (i.e. inspection, preventative maintenance, performance and quality standards).
- Response requirements for on calls.
- Property Addresses/Locations.
- Procedure when encountering hazardous materials.
- Contact information.
- Technical Specifications, if any.

The fillable fields make it easy for each Authority to include the information listed above and ensure that the Scope of Services is individually tailored to meet its needs.

Scope of Services Templates currently available to date:

- Hydraulic Elevator Maintenance.
- Fire Alarm Testing.

- Electrical. (Coming soon)
- Plumbing. (Coming soon)
- Flooring. (Coming soon)

Additional Maintenance and Repair Services Contract Templates will be added in the future.

## PREVAILING WAGE RATES “Appendix A”

### Prevailing Wage Requirements

The Massachusetts Department of Labor Standards (DLS) issues prevailing wage schedules to public agencies, including Authorities, for construction projects and several other types of public work. These prevailing wage schedules contain hourly wage rates, usual benefits and overtime that various types of workers must receive when working on a public construction project. Current prevailing wage rates must be obtained for each procurement and attached to the applicable bid packages. The LHA is always responsible for obtaining and providing these rates to prospective bidders. Prevailing wage rates apply to all contracts for public construction work regardless of dollar value unless the work is being performed by a sole proprietor. The prevailing wages included in the bid package must have been obtained within 90 days of the date that quotes are received, and for multi-year contracts, updates may be required.

### TO APPLY FOR WAGE RATES, GO TO:

[HTTP://WWW.MASS.GOV/LWD/LABOR-STANDARDS/PREVAILING-WAGE-PROGRAM/](http://www.mass.gov/lwd/labor-standards/prevailing-wage-program/)

<<Click on>> OFFICIAL REQUEST FOR WAGE RATES

<<Click on>> CONTINUE WITHOUT REGISTERING

Fill out the on-line form and submit the request. You will be brought to a confirmation page showing a request reference number. It is best to record the number. If a number is not shown, it is likely that the request did not go through properly.” Please contact your RCAT Project Manager if you require assistance.

The Authority must pay prevailing wage as per the schedule from the Department of Labor Standards (DLS) at [www.mass.gov/dols](http://www.mass.gov/dols). The prevailing wage schedule **must** be included in the Request for Quotes/Bid Package to interested bidders. When Contractors submit a quote in response to the Bid Package, they have agreed to comply with the Prevailing Wage Law. Questions regarding the Prevailing Wage Law may be answered by accessing the DLS website or by calling the DLS Prevailing Wage Program at (617) 626-6975.

Prevailing Wage Rate requests are generally processed quickly (within 24 hours).

ATTACH WAGE RATES TO YOUR BID PACKAGE.

## SUPPLEMENTARY CONDITIONS FOR FEDERAL CONTRACTS “Appendix B”

If this Maintenance and Repair Services Contract template is being prepared for a FEDERAL property, then additional conditions/requirements apply. Complete any fillable fields required in Appendix B and **attach to Bid Package**. \*The common (\* HUD) rule is, in addition to federal law and regulations, PHAs are governed by a wide assortment of state and local requirements. In general, where these rules conflict, the more stringent law or rule applies. For example, the Federal statutory limit on small purchases is \$100,000.

That does not prohibit a State from imposing a more stringent limit, e.g., \$25,000, on small purchases. A PHA governed by that State's law would comply with the \$25,000 limit.

The information contained in Appendix "B" was obtained from (\* HUD) and it represents our understanding of the current laws, regulations and policies regarding procurement of maintenance and repair service contracts. These laws, regulations and policies are always subject to change and the reader is responsible for ensuring that all information is current before proceeding on an issue and should not rely solely on the information contained herein.

(\* HUD) Mandatory Requirements for Maintenance Contracts (including nonroutine maintenance work) greater than \$2,000 but not more than \$100,000. PHAs must incorporate the clauses contained in Table 5.1, Section II of form HUD-5370-C, General Conditions for Non-Construction Contracts, and the applicable HUD wage decision.

#### FEDERAL WAGE RATE

The (\*HUD) Office of Labor Relations is responsible for the determination of whether work which will be undertaken at public housing developments constitutes maintenance, nonroutine maintenance or development. Consultation with your Local HUD Housing Staff may be necessary from time to time to help define the "nature" of the work. Following the determination of the "nature" of the work, the Labor Relations staff determines and issues prevailing wage rates to cover work which is found to constitute maintenance or nonroutine maintenance, or issues appropriate Davis-Bacon wage rates for development work.

Please visit the link below for more information.

[https://www.hud.gov/program\\_offices/davis\\_bacon\\_and\\_labor\\_standards/olr\\_9301](https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olr_9301)

Please visit the link below to locate your regions labor relations field office.

[https://www.hud.gov/program\\_offices/davis\\_bacon\\_and\\_labor\\_standards/laborrelstf](https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/laborrelstf)

#### \* References

*[https://www.hud.gov/program\\_offices/davis\\_bacon\\_and\\_labor\\_standards/olr\\_9301](https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olr_9301). [Online]*

**HUD. Procurement Handbook for Public Housing Agencies HUD Handbook 7460.8 REV 2, 2007 Chapter 5 § 5.10.**

#### PROCURING A MAINTENANCE AND REPAIR SERVICES CONTRACT

Once your bid package is ready, it's time to get quotes.

**REMEMBER: Convert your Maintenance and Repair Services Contract Template into a PDF document prior to distributing, soliciting or advertising for quotes.**

#### Bidding/Advertising:

For Maintenance and Repair Services Contracts estimated to cost **less than \$10,000** for the entire duration of the contract, LHAs are required to use "sound business practices". Sound business practices means ensuring the receipt of favorable pricing based on a written scope of work and adhering to a Code of Conduct to avoid violating public bid laws. We recommend that your sound business practices include ensuring that the selected contractor possesses the necessary qualifications, experience and

capacity to perform the work and that the contract price reflects the fair market value of the work. We also recommend that your procurement record include the date, price and scope of the work in addition to the contractor's name and address.

Keep in mind that the contract is subject to the prevailing wage law. Therefore, you should provide the prevailing wage rate sheet for the project to all contractors from which you solicit prices for the contract work.

DHCD recommends that an LHA invite at least three contractors to quote the job, but if they decline, a single quote that meets all requirements may be accepted. Keep records of contractors asked to quote.

For Maintenance and Repair Services Contracts estimated to cost **between \$10,000 – \$50,000**, a written scope of work and advertising are required.

The Authority must prepare a written solicitation that includes a scope-of-work statement defining the work to be performed and providing potential responders with sufficient information regarding your objectives and requirements for the Maintenance and Repair Services Contract.

The Authority is also required to solicit at least three written responses from contractors who customarily perform the work required by the contract.

In addition, at least two weeks before the deadline for responses, the solicitation **MUST** be advertised in the Central Register, on COMMBUYS, and posted on the authority's website and in a conspicuous place in or near your jurisdiction's primary office. *You should not solicit the written responses until the solicitation is advertised. RCAT recommends that the posting should be open for a minimum of fourteen (14) days.*

For Maintenance and Repair Services Contracts estimated to cost **greater than \$50,000, STOP**. This Maintenance and Repair Services Contract template is not intended for Maintenance and Repair Service Contracts with a full contract value (including renewal years) exceeding \$50,000. Please contact your DHCD PM or RCAT PM for additional guidance.

### Advertising Bids

For jobs estimated to cost between \$10,000 and \$50,000, public notification is required in the Central Register and COMMBUYS fourteen (14) days prior to receipt of quotes. NOTE: Central Register notices must be entered by Thursday at 4PM for posting on Wednesday of the following week (6 days later).

Use the Thursday posting date to set your date for receiving bids or quotes. If you miss the 4 PM Central Register deadline on Thursday, you lose a week and should change all the dates for bid opening and a site visit or walk-through, before resubmitting to the Central Register before the next Thursday.

TO POST TO THE CENTRAL REGISTER GO TO:

[www.sec.state.ma.us](http://www.sec.state.ma.us)

<<Click on>> "Publications & Regulations/Bookstore"

<<Click on>> "Central Register" heading <<Click on>> "Submit Bids and Notices"

In the table <<Click on>> "Online Submission" next to phrase "General Contract CR-2"

TO POST A NOTICE ON COMMBUYS GO TO:

[www.commbuys.com](http://www.commbuys.com)

For Instructions on How to Post a Public Notification on COMMBUYS Contact COMMBUYS Help Desk at



commbuys@state.ma.us and at 888-627-8283.

### Bid Package Distribution:

The Public Notification for the solicitation Documents must specify how an interested bidder can obtain the bid package. Remember, in all cases, your Maintenance and Repair Services Contract template should be converted to a PDF document.

For bid packages with a total contract value less than \$10,000, the Awarding Authority generally distributes the Bid Package upon request (soliciting quotes using sound business practices).

For bid packages with a total contract value between \$10,000 - \$50,000, Authorities still have the option to manage the bid package requests. However, because these bid packages are publicly advertised, the Authority may receive many bids, which can be time-consuming and confusing. The recommendation is to use an e-bidding service such as ProjectDog, Inc. or BidDocsOnline to manage bid package requests. RCAT also offers a website to post bid package documentation free of charge.

For ALL Maintenance and Repair Services Contract bid packages, the Authority must maintain a log of all plan holders. The log will serve as a contact sheet should any Addendum need to be issued. This log is maintained by Project Dog or BidDocsOnline, if you choose to use these vendors.

Remember to respond in writing to all request for clarification or interpretation to all Contractors after the date and time you specified in the Public Notification and within seven (7) days before bids are due.

### Evaluating Bids/Quotes

Once quotes are received and the deadline for quotes has passed, the LHA must determine the lowest qualified bidder.

#### *Bid Forms*

The ONLY required contractor forms for submitting a bid are:

- Form of Quotation/Bid Form
- Bidders Reference Form

If above TWO forms are submitted on time and filled in correctly and completely, it constitutes a BID that can be evaluated with other bids received to determine low bidder.

Note: The forms below are additional contractor-required forms that are already included in the Maintenance and Repair Services Contract template. They are also required, but can be collected after a low bidder has been determined. They are:

- Form of Owner-Contractor Agreement (A.k.a. The Contract. Obtain at least two original copies. Remember the Authority should always be last to sign).
- Certificate of Corporation Vote of Authorization (Required for Corporations/Businesses that have someone other than Owner/Member signing documents on company's behalf).
- Form for Performance Bond (Required for total contract value \$25,000 or more).
- Form for Payment Bond (Required for total contract value \$25,000 or more).

The above required Contractor forms are also available separately on the RCAT websites in electronic form so that you can access them easily, if needed.

### *Bid Tabulation Sheet*

Create a list of all complete bids received. This is a Bid Tabulation Sheet and **required** for record-keeping.

### *Low Bid Reference Check*

The Authority should then check the references of that bidder. Some questions you may wish to ask the references are:

- Did the contractor perform the work in accordance with the scope of work?
- Did the contractor provide sufficient oversight of the work performed?
- Rate the contractor's knowledge and experience.
- How were the contractor's overall schedule, organization and responsiveness?
- Did the contractor request change orders on the project? Were they justified?
- Would you use this contractor again?

The answers to these and any other questions, together with any of your other notes from these calls or e-mails, must be retained in the project file.

If the references for the low bidder are unsatisfactory based on projects within the past 5 years, the LHA can reject the low bid as long as there is sufficient documentation to support this action. Prior to rejecting the bids, contact DHCD to discuss next steps in these circumstances when the low bid is not accepted.

### *Debarred List*

Verify on statewide lists that low bid contractor is not listed on any statewide debarment list.

Once the low bid has been evaluated and references checked, then the Maintenance and Repair Services Contract can be formally awarded. The Authority **must** award the contract to the responsible contractor offering to perform the contract at the lowest price. Under M.G.L. c. 149, a "responsible" contractor possesses the skill, ability, and integrity, necessary to faithfully perform the work called for by a particular contract.

Check Authority policy to ascertain whether Board approval is required prior to contract award.

## MANAGING THE CONTRACT

### Contract Award:

The Authority must obtain two (2) fully-executed originals of the Maintenance and Repair Services Contract (Owner Contractor Agreement).

It is the responsibility of the awarding Authority to ensure that they obtain copies of all the proper employment requirements including but limited to licenses, certifications, insurance, OSHA, etc. from the Contractor for all employees working on a project prior to engagement.

Once a low bid Contractor is under contract, the Contractor may only submit invoices for payment for work completed in accordance with the terms of the contract.

Authorities must obtain the Contractor's certified payroll sheets to coincide with any invoices that they submit to ensure that Prevailing Wage was paid. The certified payroll record must be reviewed prior to paying any invoice that includes Prevailing Wage. Chapter 149, § 27B requires the following information be contained on certified payroll records: For each employee, the name, address, occupational classification, hours worked and wages paid. For each apprentice, in addition to the aforementioned

information, a photocopy of the apprentice's ID card. Example of certified payroll record (report form): <http://www.mass.gov/lwd/docs/dos/prevaling-wage/pw-payroll.pdf>

#### Important Items to Remember:

- Maintenance and Repair Services Contracts > \$10,000 REQUIRE that the contractor and/or its workers have completed a 10-Hour OSHA Training Program in order to perform work on the site.
- Maintenance and Repair Services Contracts > \$25,000 REQUIRE Payment and Performance Bonds.
- No Minimum Charge: Contractors are paid only for hours worked on location. Labor charges begin at job location and end at job location. The Authority will not pay for any additional labor charges away from job location.
- Other Expenses: No meals, commuting expenses, fuel surcharges, lodging, incidental expenses or other expenses can be billed to the Authority.

#### CONTRACT RECORDS

LHA must create a record for the Maintenance and Repair Services Contract award, including (but not limited to):

- Original bid package
- Plan Holders list
- Bids Received
- Bidders Reference Form
- Award Letter
- If a low bid was deemed non-responsible or non-responsive then remember to include all documentation/justification for your determination and correspondence notifying contractor.
- Contract
- Mandatory Contractor Forms:
  - Insurance (make sure the Certificates of Liability show amounts meet or exceed minimum standards listed in Front End)
  - OSHA cards for all workers who may be on-site.
  - Certificate of Vote of Authorization
  - Payment AND Performance Bonds, if total contract value > \$25,000
  - Any correspondence/questions, together with any of your other notes, from any calls or e-mails pertaining to this contract, must be retained in the project file.

#### HANDLING HAZARDOUS MATERIALS ENCOUNTERED DURING THE PERFORMANCE OF THE WORK

The problems of handling hazardous materials, specifically those such as asbestos (ABS), lead, and others listed by EPA, have been recognized for their hazards to human health. Such materials have long been used in the manufacture of various construction products, and have been incorporated into building and utility construction for years. Now that the hazards are known, those materials should be avoided in new construction. The problem of work in existing buildings remains, and the presence of hazardous materials may be largely unknown to Owners, Owners Representatives and to the Contractors engaged in such work.

The Federal Government has established EPA and OSHA standards, regulations, and Haz-Com reporting procedures which specifically govern such hazardous materials in the workplace, including those in existing buildings. There is civil, and at times criminal liability for failure to utilize proper safeguards and procedures in the handling of those materials encountered in renovation work.

For work in existing buildings, it is recommended and standard in the industry to hire a licensed and certified professional to test suspect material. The term "suspect material" has long been used by the asbestos industry to refer to any building material that is suspected of being asbestos-containing. For the purpose of this document the term "suspect material" shall include all hazardous materials, specifically those such as asbestos (ABS), lead, lead paint and others listed by EPA.

Even with such precautions there is the ever-present possibility that workers on existing construction will encounter hazardous materials not previously identified. Contractors should train their personnel to recognize those conditions, stop work, and notify the Owner if they encounter such material. The Contractor should immediately stop all work in the affected area and notify both the Owner and the Owner's Representatives. A certified Industrial Hygienist should analyze the material and recommend the appropriate corrective action if needed. Only after the area is certified to be clear of all hazardous conditions and materials, should work be resumed.

Please contact your DHCD PM or RCAT PM for additional guidance

