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OWNER'S PROJECT MANAGER GUIDELINES – M.G.L. c. 149, §44A1/2

Effective on July 19, 2004, Chapter 193 of the Acts of 2004 inserted a new provision into M.G.L. c. 149, § 44, which governs public building procurement. The new provision, M.G.L. c 149, §44A ½ , **requires** public awarding authorities to engage the services on an Owner's Project Manager on all building projects estimated to cost \$1.5 million or more*. The law requires that the Owner's Project Manager (OPM) be hired before the project designer, meet required minimal qualification standards, and be selected through a "qualifications based" selection process. The OPM acts as the awarding authorities agent and consultant throughout the project from design through completion and must be completely independent from the designer, general contractor and any sub-contractors involved in the project at all times. The law provides a listing of the minimally required duties of the OPM as follows:

The duties of the owner's project manager shall include, but need not be limited to, providing advice and consultation with respect to design, value engineering, scope of the work, cost estimating, general contractor and subcontractor prequalification pursuant to section 44D ½ or 44D ¾ when applicable, scheduling, construction and the selection, negotiation with and oversight of a designer and a general contractor for the project, ensuring the preparation of time schedules which shall serve as control standards for monitoring performance of the building project, and assisting in project evaluation including, but not limited to, written evaluation of the performance of the design professional, contractors, and subcontractors.

Attached to this document is a matrix providing guidance on the role of the OPM through the different phases of a project. Those roles that are mandated by the law appear in bold and consist of "advice and consultation" in each of the areas. The law lays out minimal mandated roles and awarding authorities should carefully consider what other roles/tasks the OPM can provide to help ensure a successful project. Additional tasks and responsibilities that should be considered appear on the matrix but are not in bold. If the awarding authority determines that some of the non-mandatory tasks and responsibilities will be delegated to persons or entities other than the OPM they should first determine whether those persons or entities are qualified by experience to undertake the tasks.

OPM Selection and Qualifications

As stated above the law requires a “qualifications based” selection process, similar to a designer selection process that focuses on qualifications as opposed to lowest price. The law sets forth minimum qualifications standards for the OPM that require the OPM be a registered architect or professional engineer and have at least five (5) years of relevant experience in the construction and supervision of construction of buildings. In the event the OPM is not a registered architect or professional engineer they must have at least seven (7) years of relevant experience in the construction and supervision of construction of buildings. These are truly minimal requirements and awarding authorities will want to ensure they retain a highly qualified and experienced OPM to serve as their agent and consultant. Awarding authorities should carefully review OPM applicants to ensure they have significant relevant experience in the supervision of construction of the type and complexity necessary for the project. It is critical that the selected OPM be identified as an individual within a firm and that the identified individual meets, and preferably exceeds, the minimum qualifications. In evaluating applicants due consideration should be given to the potential OPM’s personal experience, skills, existing work load, staff available for back-up and assistance, and prior direct experience providing services in both the mandatory tasks and any other additional tasks the awarding authority requires. In particular if the project is undertaken as a CM at Risk project the OPM should have prior experience with the unique aspects of CM at Risk projects including, but not limited to, GMP negotiation and “open book” cost review. The selected OPM as an individual will be intimately involved in the project and bears the ultimate responsibility of providing the required OPM services to the Awarding Authority.

* The law allows a public agency to assign an existing employee to serve as its OPM provided that the designated employee meets or exceeds the minimum qualifications set forth for retaining a private sector project manager and “has experience in the construction and supervision of construction of building of similar size and scope of complexity as the project” to which the existing employee would be assigned.

GUIDELINES- ROLE OF OWNER'S PROJECT MANAGER UNDER M.G.L. c. 149, § 44A1/2

(APPLICABLE TO ALL PROJECTS OVER \$1.5 MILLION PROCURED UNDER M.G.L. c. 149, §44A-J and M.G.L. c. 149A)

- **Owner's Project Manager (OPM) Role of "Advice and Consultation" in these areas is REQUIRED by MGL c. 149, § 44A1/2, required role items appear in bold with an asterick**
- ***Roles applicable to CM at Risk Projects only appear in italics***
- (A&C) = Advice and Consultation

	PRE-DESIGN PHASE	DESIGN PHASE	CONSTRUCTION PROCUREMENT	CONSTRUCTION PHASE	POST-CONSTRUCTION PHASE
TASK					
SELECTION	<ul style="list-style-type: none"> • Designer Selection * • Designer Negotiations* • Site Selection (A&C) • Coordination of Participation by Stakeholders and other Parties • Project Delivery Method (A&C) • Drafting of Designer Selection Materials (A&C) • Design Contracts (A&C) • Procurement of other necessary consultants (A&C) 	<ul style="list-style-type: none"> • <i>CM Selection Process*</i> • <i>CM Negotiation, Including Pre-Construction & GMP*</i> 	<ul style="list-style-type: none"> • General Contractor Bid Process * • Subcontractor Bid Process* • Prequalification of bidders* (when required or selected) • <i>Prequalification of CM & Trade Contractors*</i> • <i>CM Selection Process*</i> • <i>Trade Contractor Bid Process*</i> • <i>CM Negotiation, Including Pre-Construction & GMP*</i> • Attend Pre-Bid Meetings • Construction Contracts (A&C) • Bid Protests (A&C) 	<ul style="list-style-type: none"> • Procurement of furniture, fixtures & equipment (A&C) • On-Site Clerk or Resident Engineer Selection (A&C) • Commissioning Consultant(s) Selection (A&C) 	<ul style="list-style-type: none"> • Procurement of utilities, services, staff and contracts for building operation and maintenance (A&C)

PROJECT MANAGEMENT	• Overall Project Oversight*					
	• Designer Oversight *					
	• Designer Negotiation*					
	• Coordination of Consultant Reports & Recommendations A&C	• Design*			• Contractor Oversight *	• Designer Evaluation*
	• Overall Team Leadership as Owner's PM	• Designer Evaluation*			• CM Oversight*	
	• Monthly Status Reports to Owner on Project				• Contractor & Sub Evaluation*	
	• Establish Schedule (A&C)	• Permit Planning (A&C)	• Permitting Process (A&C)			• Regular Reports to Owner on all Aspects of Project
	• Establish Design Criteria (A&C)	• <i>Establish CM Preconstruction Services Scope</i>			• Oversee the Provision of on site Clerk or Resident Engineer Services i.e. daily logs, monitoring progress & quality, tracking submittals, coordinating testing & inspections	• Provide Support & Assistance in any Claims Related Matters or Litigation
	• Establish Project Scope (A&C)	• <i>CM Oversight preconstruction services</i>			• Monitor Storage & Protection of Owner Purchased Materials, Furniture & Equipment	
		• Coordination Meetings				
	• Design Document Review					

COST MANAGEMENT	<ul style="list-style-type: none"> • Cost Estimating * • Monitor total project budget • Review all project related invoices • Develop Total Project Budget and Establish Proposed Expenditures • Secure Funding (A&C) • Implement Controls for Project Budget 	<ul style="list-style-type: none"> • Value Engineering Building Systems & Design* • Cost Modeling for Alternative Solutions & Designs • <i>On CM Projects Coordinate "Open Book" Accounting process</i> 	<ul style="list-style-type: none"> • Analysis of Costs of Bids Bidders & Recommendations (A&C) • <i>Analysis of Costs of CM Proposals & Firms & Recommendations (A&C)</i> • Establish Cost Control mechanisms 	<ul style="list-style-type: none"> • Monitor & Assess Progress Payments • Assist Designer in Review & Approval of Requisitions (A&C) • Monitor Time & Material Activities • Demands for Direct Payment (A&C) 	<ul style="list-style-type: none"> • Closure of Project Accounts (A&C) • Monitor Project Audit • Provide Operation Cost Projects & Analysis of Alternative Contracts

TIME MANAGEMENT	<ul style="list-style-type: none"> • Time Scheduling * • Develop & Monitor Master Project Schedule & Advise on Schedule issues • Develop Preliminary Schedule for all Design & Consultant Processes & Services 	<ul style="list-style-type: none"> • Review Schedule Updates • Insure Designers and Consultants Meet Schedule Dates, Provide Timeline, CPM Risk Analysis and Mitigation Strategies 	<ul style="list-style-type: none"> • Insure Designers, Consultants & Contractor Meet Schedule Dates, Provide Timeline, CPM Risk Analysis and Mitigation Strategies 	<ul style="list-style-type: none"> • Develop & Monitor Warranty Period Assessments & Work Until Handed Over to Facility Operational Staff

CONTRACT ADMINISTRATION	<ul style="list-style-type: none"> • Maintain Project Communications & collect all project documentation • Attend all Project Meetings as Owner's Rep. • Attend & Present on Project at Public Meetings & Forums • Maintain & Track Certificates of Insurance, Bonds, etc from designer, contractors & others • Expedite Activities & Meetings to Achieve Timely Project Flow • Establish Document Control System • Establish procedures for reviews, approval, changes, etc. 	<ul style="list-style-type: none"> • <i>Oversee & Monitor Designer's Compliance with MBE/WBE Requirements</i> • <i>Oversee & monitor CM's Compliance with MBE/WBE Requirements</i> 	<ul style="list-style-type: none"> • Monitor Project Change Log & advise Owner of Status & Financial Implications • Proposed Change Requests (A&C) • Monitor Document Control System for Submittals & RFIs (A&C) • Claims for Additional Time or Cost (A&C) • Oversee & Monitor Contractor's Compliance with MBE/WBE Requirements • Oversee & Monitor Contractor's Compliance with Prevailing Wage submissions <p>Assist in Development of Punchlists & Monitor Completion of Punchlist Items</p>	<ul style="list-style-type: none"> • Insure Warranties, As-Builts, O&M Manuals etc. are provided to Owner • Manage & Control Storage & Turnover of All Project Related Records including As BUILTS, Record Drawings, Warranties & O&M Manuals to Owner • Monitor Status & Completion of Punchlist Items • Commissioning (A&C) • Commissioning Post-Occupancy Evaluation (A&C)
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QUALITY AND SAFETY MANAGEMENT	<ul style="list-style-type: none"> • Programming Uses & Design Parameters (A&C) 	<ul style="list-style-type: none"> • Feasibility, Constructability, Labor & Materials Availability (A&C) • Develop & Administer Construction Mitigation Plan re: abutters • Review & Advise on Design Issues/Problems 	<ul style="list-style-type: none"> • Monitor Quality Assurance Program during Construction (A&C) • Ensure & Monitor the Development & Administration of Construction Mitigation Plan re abutters 	<ul style="list-style-type: none"> • Ensure & Monitor Building Systems & Utilities are Tested & Operating 	<ul style="list-style-type: none"> • Ensure & Monitor Contractor's Final Testing Training & Start-Up of Systems & Utilities
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