

## LAWS, REGULATIONS AND BIDDING

Today there is no all-encompassing regulatory system that establishes Green standards for the entire industry or nation. No federal, state or local law specifically mandates Green. There are many laws, however, that have an impact, such as the federal Clean Air and Water Acts.

In Massachusetts the Dept. of Capital Management is required by law to use Life Cycle Cost Analysis in new construction and major renovation projects. The state Executive Office of Environmental Affairs still operates the Sustainability Program initiated by Gov. Swift. Under it state agencies are required to produce departmental Sustainability Plans documenting the steps they will take and the staff responsible for taking them. Both DCAM and EOEA offer planning assistance and implementation grants.

The state electrical code sets a minimum efficiency baseline. And there are water efficiency guidelines for plumbing fixtures. The state building code mandates energy efficiency in its insulation requirements for one and two-family homes and commercial buildings.

The state does have an Environmentally Preferable Products Procurement Program and maintains a list of such products.

In 2000 the Mass legislature passed a law requiring the Dept. of Education to augment state reimbursement for school construction by

2% for “energy efficient” projects. So far this money has only been made available to 8 schools in a pilot program, but they’ve learned a lot. In 2004 the new Massachusetts School Building Authority was created. This Authority will finalize its regulations in 2006, and is expected to require compliance with CHPS standards for new school construction.

In Boston Mayor Menino appointed a Green Building Task Force that made its recommendations in late 2004. The Task Force set a goal for new construction to rate at least LEED Silver, the third step from the top, but they did not mandate it. The recommendation does require that major projects be LEED certifiable. In order to get a LEED certification, a company has to submit documentation after construction to demonstrate that the correct materials and systems were used. This is the lengthy and expensive part of the process, so Boston has said businesses only need to build with the materials, not get the paper. To use an example closer to home, we found out at Whole Foods Market that, despite the chain’s devotion to sustainability and its Green mission, only one store nationwide is fully LEED certified.

Locally, Hingham has neither regulations nor a by-law that mandate Green building, but does require compliance with those types of state and federal codes and regulations that I’ve been mentioning.

Before building and bidding comes planning. I’d like to emphasize the benefit to be achieved if local building committees and task forces take an integrated, whole building approach. In interviewing

firms to participate in the design process, the committee will receive better designs if all architectural, mechanical, and site team members are included from the outset. It was documented in the pilot project involving the 8 schools that the more knowledgeable firms were able to capture significant savings in planning and design through working on the schools as single units rather than separate heating/lighting/food prep/classroom elements. The interdependence of all building systems also means that these planning efficiencies are leading to operating economies as the schools are occupied.

Committee volunteers would be supported in taking such an approach if the Town were to adopt a Green philosophy for the Town and a Green policy for public building. In 2005 the Hingham Selectmen appointed a Green RFP task force who reported back in support of adoption of a Green philosophy and favored life cycle cost analysis, but recommended language that leaves to each awarding authority the decision as to the need for and level of Green design to be required.

The Hingham Light Plant offers no efficiency incentives to customers now, but its Strategic Planning Committee in 2005 called for the creation of a town-wide energy committee to develop an overall efficiency policy throughout the town.

In this study our interest was primarily in public building projects, for which Requests for Proposals, RFPs, must be issued and bids accepted. This mechanism offers both opportunities and hurdles. Green

technology is changing daily, so one may not want to be too specific in specifying particular systems in the RFP. But, lack of clear language in the document may result in bids that don't fulfill the town's intent. Omission of tight Green requirements may lead builders who aren't really familiar with Green building methods and materials to submit the low bid. And vagueness also leads to expensive change orders during construction.

While the industry is so new, it is difficult to find architects, contractors and sub-contractors with extensive green experience and motivation, but no town wants to pay for the learning curve of the professionals it hires.

It is widely believed that building green costs more. For initial outlays today this is still true, but the differential disappears if you add in the operations and maintenance costs over time. For any politician who must report to the taxpayers, the higher initial expenditure is difficult to justify. Besides, it will be future politicians who reap the operational savings. Life Cycle Costing is an important concept to hold to, in my opinion. It makes sense to take a longer view and consider all the costs, as well as the benefits, over the economic life of any capital improvement. In the municipal sphere this is complicated due to the separation of capital improvement budgets and committees from the operating budgets and responsible department heads.

To promote Green, a town may choose, as Boston has done, to give preference for LEED ratings or LEED certifiability in its RFPs. It may award points in the bid review for a LEED-accredited professional team.

Towns may offer financial incentives in the form of tax credits. Expedited permitting processes may be developed in return for sustainable buildings. Zoning By-Laws may be amended to make LEED-certifiable new construction a criterion of the site plan review process. And I'll stop there because you've no doubt heard all you ever wanted to hear about the site plan review process already this spring.