

## INSIGHTS + NEWS

### Bowditch Secures Bid Protest Victory Before Mass. Attorney General's Bid Unit for Electrical Subcontractor

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Bowditch recently obtained a favorable decision before the Massachusetts Attorney General's Bid Unit on behalf of an electrical subcontractor in a construction bid protest.

The protest arose from electrical filed sub-bids submitted for a municipal fire station project. The apparent low bidder identified a sub-subcontractor for audiovisual work but listed only part of that sub-subcontractor's price, omitting approximately \$40,000 in material costs. Because the margin between the apparent low bid and Bowditch's client's bid was approximately \$26,000, the omission affected which bidder should have been deemed lowest.

Bowditch argued that Massachusetts law required the apparent low bidder to list the full price for the specialized audiovisual work performed by its listed sub-subcontractor, including both labor and materials. The Attorney General's Bid Unit agreed, finding that the apparent low bid was not bona fide and could not be cured after bid opening through a post-bid assurance that the bidder would honor the full sub-subcontractor price.

As a result, the Bid Unit directed the awarding authority to reject the apparent low electrical filed sub-bid, issue a revised bid tabulation identifying Bowditch's client as the lowest remaining electrical filed sub-bidder, and proceed with the procurement in the ordinary course.

#### TAKEAWAY

The decision reinforces a key protection in Massachusetts construction bid protests: bids must be complete, accurate, and comparable at the time they are opened. A bidder may not gain a competitive advantage by omitting required pricing information and then attempt to correct the issue after bids are submitted.

The Bowditch team was led by [Matt Madden](#) and [Michael Sams](#).