



Office of the Inspector General

PROCUREMENT BULLETIN

Dear Public Officials,

As fiscal year 2017 comes to an end, I am proud to report that our Massachusetts Certified Public Purchasing Official (MCPPO) program had a very successful year. We created new courses in response to student requests, continued to expand our videoconference locations, and taught a series of live classes at Gateway Regional School District in Huntington. We also offered several one-day classes at various locations across Massachusetts. Overall, we held 47 classes and 16 videoconferences last fiscal year, providing training to over 1,870 participants from across the Commonwealth – more students than in any other year.

The program’s success is due to the commitment of our staff, external instructors, videoconference hosts, offsite class hosts and students. I thank all of you for your support of the MCPPO program and to your dedication to ensuring that taxpayer funds are spent appropriately.

Because training and education are cornerstones of my Office’s mission, we are developing a series of free, online training videos that provide an overview of different procurement topics. Our first video – titled “An Overview of Chapter 30B” – offers an introduction to conducting open, fair and competitive procurements in Massachusetts in accordance with Chapter 30B. The thirty-minute video was designed for all audiences – from individuals who are new to public procurement to seasoned professionals looking for a brief refresher on Chapter 30B. We encourage you to view the video, which is available on our website (www.mass.gov/ig), and to share it with your staff. Also, please check our website later in the summer for our second online video, which will provide an introduction to fraud prevention.

Finally, congratulations to our most-recent MCPPO designees. An MCPPO designation is a testament of a public purchasing professional’s commitment to conducting open, fair and competitive procurements in accordance with the law. For a list of the newest MCPPO designees, please see page 9.

As always, thank you for your time and consideration in reviewing my Office’s publications. I wish you all an enjoyable and relaxing summer.

Sincerely,

Glenn A. Cunha

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IMPORTANT NOTICE

To report fraud, waste or abuse, please see the following contact information:

By 24-Hour Hotline:
(800) 322-1323

By Email:
IGO-FightFraud@state.ma.us

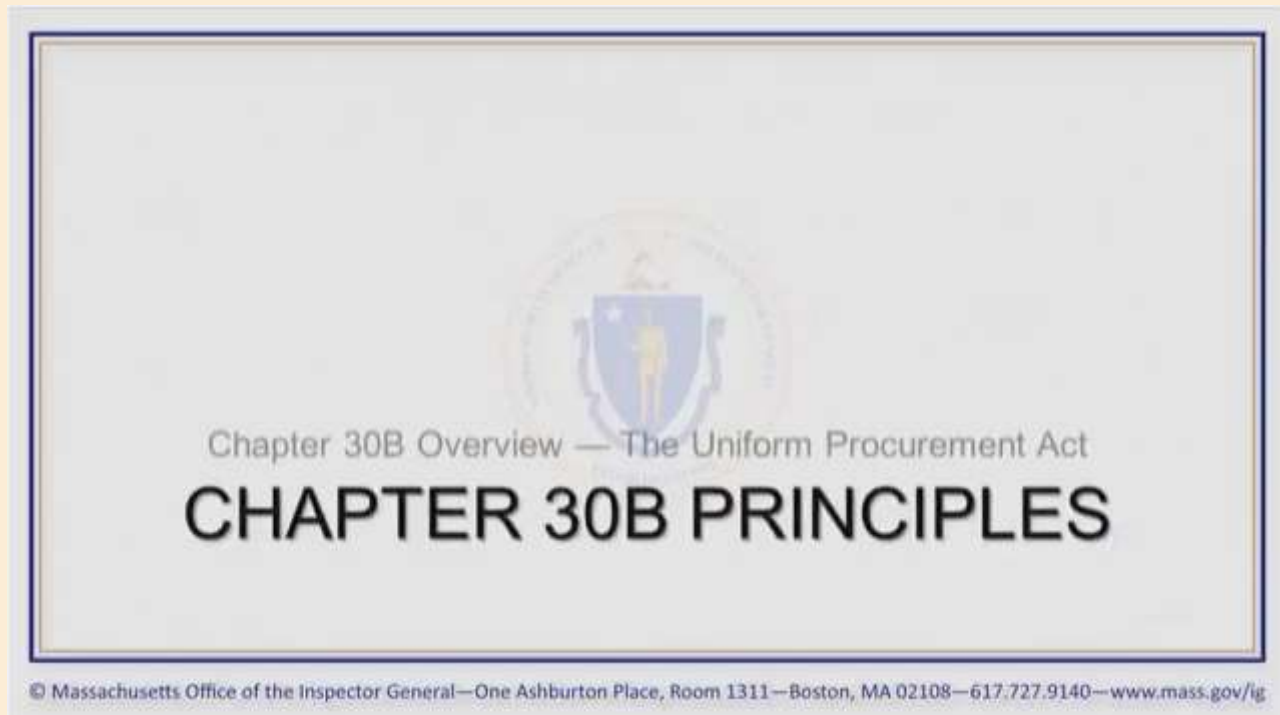
By U.S. Mail:
Office of the Inspector General
One Ashburton Place, Room 1311
Boston, MA 02108



Free Procurement Training Video

The Office is pleased to offer a free, online training video entitled “An Overview of Chapter 30B – The Uniform Procurement Act.” The thirty-minute video covers the basics of open, fair and competitive procurements in Massachusetts in accordance with Chapter 30B. For instance, it outlines which local governmental entities must follow Chapter 30B and provides an overview of the legal requirements for procuring goods, services and real property.

The video was designed for all audiences, from individuals who are new to public procurement to seasoned professionals looking for a brief refresher on Chapter 30B. We invite everyone – from public officials to vendors to taxpayers – to visit our website at www.mass.gov/ig to view the video. Also, please check our website later in the summer for our second online video, which will provide an introduction to fraud prevention.





FREQUENTLY ASKED QUESTIONS RELATING TO PROCUREMENT

Q1: I am purchasing retirement board services for my town. These services include actuarial services related to pension benefits for employees. Are these services subject to Chapter 30B?

A1: No. Section 1(b)(19) of Chapter 30B exempts “a contract for retirement board services” from Chapter 30B. Retirement board services include, among other things, contracts related to actuarial, legal and accounting services. Please note that, while exempt from Chapter 30B, these types of services are subject to a competitive sealed proposal process set forth in Section 23B of Chapter 32.



Q2: I am in the process of drafting an invitation for bids (IFB) for new copy machines, which will include a service requirement for maintenance and repair work. In the event of a maintenance issue, I believe that a local vendor would likely be able to respond quickly to our needs. Can I include a geographical restriction in the IFB that requires the vendor’s business to be located in my town?



A2: No. A geographical restriction is not permissible under Chapter 30B. Such a restriction goes against the principles of open and fair competition because it limits the vendor pool. As a practical matter, this type of restriction may also drive up the cost of the supply or service being sought. However, you may include a quality requirement in your IFB that outlines reasonable response times for service calls. For example, such a requirement might state that the vendor must be able to respond “within two hours of receipt of the service call.” This type of requirement is in compliance with both the legal requirements and principles of Chapter 30B.



Q3: My jurisdiction is only seven months into a three-year contract with a school bus transportation vendor. The transportation services were procured using sealed, competitive bids under Section 5 of Chapter 30B. Over the course of the last few weeks, the vendor has been involved in several safety and traffic violations. Therefore, we need to terminate the contract right away. However, my jurisdiction still needs to transport students safely to and from school during summer school. The initial invitation for bids secured many bids from other vendors. Because the current vendor will no longer provide the services, our jurisdiction would like to award the remainder of the contract to the second-lowest bidder instead of rebidding the contract. May we award the remainder of the contract to the second-lowest bidder?



A3: No. You may not award the remainder of the contract to the next-lowest bidder that participated in the original procurement process. Since your jurisdiction needs to quickly find a way to transport students to and from school safely, however, you can conduct an emergency procurement under Section 8 of Chapter 30B.

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Section 8 of Chapter 30B provides that if the “time required to comply” fully with Chapter 30B “would endanger the health or safety of people or their property” due to an emergency, you may procure the necessary supplies or services without conducting a full Chapter 30B process. However, under Section 8 of Chapter 30B, you must procure only the supplies or services needed to meet the emergency. Therefore, you may only procure the transportation services you need in order to resolve the emergency (i.e. to give you sufficient time to bid out and award a new contract). Furthermore, you must still comply with Chapter 30B to the extent possible. For example, you may shorten an advertising requirement, solicit price quotations, or use sound business practices to obtain the services needed to resolve the emergency.

In addition, Section 8 of Chapter 30B requires documentation supporting the fact that an emergency exists. You must also document the name of the vendor to whom you award the emergency contract, the type of contract you procure, and the dollar amount of the contract. Further, the town’s chief procurement officer must submit a copy of this documentation to the Secretary of State’s Office for publication.



Two final notes. First, after your jurisdiction secures the emergency services necessitated by the contract termination, you must follow Chapter 30B to procure bus service for the remainder of the contract period (or a new time period, if you so choose). You must use the procurement process in Chapter 30B that applies to the estimated value of the remaining contract. Second, you should consult with your town counsel for legal guidance on terminating the contract with the current vendor.



Q4: As the Director of Finance for an urban public school system, I recently ordered textbooks and educational materials without using any procurement procedures under Chapter 30B. I believe textbooks and educational materials are fully exempt from Chapter 30B as “sole-source procurements.” Am I correct?

A4: No, you are incorrect. Under Section 7 of Chapter 30B, you must first conduct a reasonable investigation and make a written determination that only one practicable source exists for a needed supply, such as for the most-recent edition of a textbook. This applies to *all* sole-source procurements regardless of the estimated value of the supplies you seek. Therefore, if you find that only one “practicable source” exists, you must first prepare a written determination to that effect before placing any order. Bear in mind, however, that even textbooks can often be purchased from many different distributors, including Amazon and other on-line book sellers. Therefore, you may not determine that only one “practicable source” exists if your school department is able to purchase its required edition of a textbook from more than one vendor.



Additionally, if your recent order for textbooks and educational materials violated any provision of Chapter 30B, it is an invalid contract and no payment can be made. See M.G.L. c. 30B, § 17(b).

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Therefore, you must cancel the order and then conduct a reasonable investigation to determine whether there are other sources from which you may procure your textbooks and educational materials. If there are other sources, you must conduct the appropriate competitive process under Chapter 30B based on the estimated value of the supplies you seek. If there are no other sources, then you may order the books after documenting your determination.



Q5: I am a procurement official with a written purchase description for a unique service that is estimated to cost approximately \$40,000. My preliminary research revealed only two vendors that are able to provide the service my jurisdiction needs. If I solicit written price quotations from these two vendors, am I in compliance with Section 4 of Chapter 30B?

A5: No. Under Section 4 of Chapter 30B, a jurisdiction must seek written price quotations for goods and services estimated to cost between \$10,000 and \$50,000 from *no fewer than three* vendors that customarily provide that supply or service. Based on the Office’s review of the statute, you may satisfy the requirements of Section 4 of Chapter 30B for the third price quotation through robust advertising, including posting your written purchase description on COMMBUYS, the state’s online system used to advertise business opportunities with local jurisdictions, among other things. By posting your purchase description on COMMBUYS, you would reach a large group of vendors that may be able to provide the services you need without any additional advertising costs. This type of solicitation supports public procurement principles, including the promotion of robust, open and fair competition.



Remember, when procuring standard, commercially available goods you may use catalogs, flyers or website advertisements as a price quotation for your procurement. As a best practice, however, you should not use catalogs, flyers or website advertisements for all of your price quotations. Further, catalogs, flyers and website advertisements will not be applicable in many situations, such as when the service is unique or the supply needs to be customized.

Chapter 30B Hotline: (617) 722-8838



On the Road with MCPPO

This spring, the Office continued its commitment to educational outreach by offering “On the Road” classes throughout Massachusetts.

Office staff traveled to Barnstable on May 15th to present a class on procurement fraud to over 25 students. Barnstable County hosted the full-day training at the Barnstable County Complex. The course equipped procurement officials and other public employees with the tools they need to prevent and detect procurement fraud. Some of the topics covered throughout the day included fraud theory, fraud prevention and detection, and assessing the risks of procurement fraud. Using real-life case studies, participants also learned about different types of procurement fraud, such as bid rigging, collusion, product substitution, tailored bids, kickbacks, false claims, unjustified sole-source awards and bid manipulation.

On May 16th, staff traveled to the Massachusetts Association of School Business Officials’ (MASBO) Annual Institute in Falmouth to present an all-day educational program entitled “Spotlight on Schools.” The “Spotlight on Schools” program was one of MASBO’s break-out sessions with over 50 attendees participating in lively discussions regarding school department procurements. The Office’s instructors addressed trending issues in school procurements, including real property leases and licenses, food service providers, practical considerations for technology purchases, sole-source issues and proprietary specifications. In addition, instruction focused on fostering competition for public school transportation services and procurement problems associated with the use of vendor-supplied specifications.



MASBO “Spotlight on Schools” program presented at the annual MASBO conference in Falmouth.



Procurement Fraud and Contract Administration class in North Attleborough.

Office staff then traveled to North Attleborough on May 24th to teach procurement fraud and contract administration. The full-day event, hosted by the Southeastern Regional Services Group (SERSG) and held at the North Attleborough Police Department, included 30 procurement officials from North Attleborough and surrounding jurisdictions. The classes addressed the identification of contract administration problems, risk assessments and mitigation, false claims, fraud awareness, and the prevention and detection of procurement fraud.

If your jurisdiction is interested in hosting an “On the Road” class, please contact Joyce McEntee Emmett, Director of the MCPPO program, at (617) 727-9140.



MCPPO Designation Application Reminder

Upon successful completion of the required MCPPO courses (*Public Contracting Overview, Supplies and Services Contracting, and/or Design and Construction Contracting*), you do not automatically receive an MCPPO designation. You will, however, receive a certificate of completion for each class. A certificate of completion and an MCPPO designation are not the same thing. To apply for an MCPPO designation, please fill out an Application for Designation, and mail it into the Office along with all required documents stated on the application. Please read the application carefully. Incomplete applications are returned to the sender and will not be considered until all the necessary materials have been provided. Once you have been awarded an MCPPO designation, we require you to complete the required additional coursework and submit an Application for Recertification every three years. The chart below outlines the MCPPO designation requirements. To learn more, please visit our website.



| Education and Experience Requirements | | |
|--|--|--|
| Designation | Education | Experience |
| MCPPO | High school diploma or equivalent, and successful completion of the <i>Public Contracting Overview, Supplies and Services Contracting</i> and <i>Design and Construction Contracting</i> seminars. OR Bachelor's degree and successful completion of the 3 designated seminars. OR Bachelor's degree, qualifying graduate degree in a related field, and successful completion of the 3 designated seminars. | 5 years public procurement, ** including 2 years management or supervisory experience in MA*** 4 years public procurement, ** including 2 years management or supervisory experience in MA*** 3 years public procurement, ** including 2 years management or supervisory experience in MA*** |
| MCPPO for Supplies and Services | High school diploma or equivalent and successful completion of the <i>Public Contracting Overview</i> and <i>Supplies and Services Contracting</i> seminars [same criteria as above for education substitutes] | [same criteria as above] |
| MCPPO for Design and Construction | High school diploma or equivalent and successful completion of the <i>Public Contracting Overview</i> and <i>Design and Construction Contracting</i> seminars. [same criteria as above for education substitutes] | [same criteria as above] |
| Associate Levels (available for all designations) | High school diploma or equivalent and successful completion of required seminars and training classes as outlined above. | 1 year public procurement in MA |

* Required MCPPO seminars must be completed within three years prior to application.

** "Procurement" means buying, purchasing, leasing, or otherwise acquiring supplies, services, design services, or construction work, and all of the functions that pertain to such acquisition, including description of requirements, selection of sources, solicitation and evaluation of offers, contract preparation and award, and all phases of contract administration, performed by an individual employed by a public entity. To qualify as public procurement experience, a position must entail a minimum of 75 hours per month.

*** "Management" means managing or administering a procurement activity, but does not include principally clerical or data entry functions. To be considered a public procurement management position, a position must entail:

- decision-making authority with respect to procurement activities, or
- authority with respect to the procurement activities of public employees whose primary responsibility is procurement, or
- substantial responsibility for providing legal advice on procurement matters to public employees whose primary responsibility is procurement, or
- substantial responsibility for conducting performance reviews or audits of public procurement activities.

"Supervisory" means supervising (with authority to hire and fire) public employees whose primary responsibility is procurement.



REMINDER

MCPPO Course Information

The MCPPO class schedule for the Fall 2017 semester will be available in the near future. Information regarding all upcoming classes will be posted on our website at www.mass.gov/ig/mcppto.



REMINDER

MCPPO Program Registration Policy

All registration forms must be mailed in and accompanied by your payment. Registration forms received via fax can no longer be accepted. Purchase orders are not considered to be sufficient forms of payment. We thank you for your cooperation and continued support.

MCPPO DESIGNATIONS

Application Policy

As a reminder, the Office accepts CORI Acknowledgement Forms and MCPPO designation applications by mail. If you submit the CORI Acknowledgement Form by mail, you must first notarize the form and include a copy of your valid government-issued photo identification. You may also submit CORI Acknowledgement Forms and MCPPO designation applications in person at the Office of the Inspector General. CORI Acknowledgment Forms and designation applications can be found on our website at the following link:



www.mass.gov/ig/publications/forms/mcpdesig.pdf.



CONGRATULATIONS TO OUR NEWEST MCPPO DESIGNEES!

The following is a list of the Office’s new MCPPO Designees based on applications reviewed (not received) between April 1, 2017 and June 30, 2017:

MCPPO

- Mark Barrett, Town of Lexington*
- Edward Buckley, Jr., Town of Raynham*
- Brian Cherry, Town of Duxbury*
- Darlene Cincone, Ludlow Public Schools*
- Sheila Cusolito, Sudbury Housing Authority*
- Barbara Durand, Town of Ashland*
- Leon Gaumond, Town of Sturbridge*
- Eugene Jones, Old Rochester Reg. School Dist.*
- Justin Leduc, Oxford Public Schools*
- Patricia Marone, Nashoba Reg. School Dist.*
- Maria Mendonca, Town of Dartmouth*
- Mary Ellen Normen Dunn, Brookline Public Schools*
- June Sanfilippo, Rockport Public Schools*
- Colleen Sullivan-Locchi, Norwell Housing Authority*
- Ellen Whittemore, Leicester Public Schools*

MCPPO for Design & Construction

None

MCPPO for Supplies & Services

Steven Lamarche, Bourne Public Schools

Associate MCPPO

- Wayne Amaral, City of Newburyport*
- Jacqueline Cashin, MHEC*
- Leona Cleveland, Wareham Water Pollution Control Facility*
- Joseph Conway, Town of Wakefield*
- Melissa Cote, Natick Dept. of Public Works*
- Kirk Fulton, Chelmsford Housing Authority*
- Gregory Johnson, Town of Westford*
- Bernie Kirstein, Chelmsford Housing Authority*
- Eric Larsen, Provincetown Dept. of Public Works*
- Amy Lipkind, Cape Cod Collaborative*
- Ashley Lopes, Weston Public Schools*
- Rory Marty, Sharon Public Schools*
- Michael Medeiros, Taunton Housing Authority*
- Daniel O’Donnell, Town of Westford*
- Daniel Ouellette, North Attleborough Housing Authority*
- Karen Pierce, Wakefield Municipal Gas and Light Dept.*
- Christopher Plourde, Plymouth Housing Authority*
- April Steward, Town of Boylston*

Associate MCPPO for Design & Construction

None

Associate MCPPO for Supplies & Services

- Lori Belanger, City of Holyoke*
- Mary O’Toole, Boston Fire Department*
- Arnaldo Velazquez, Chelsea Housing Authority*
- Anthony Whalen, Chicopee Housing Authority*
- Linda Whyte, Reading Housing Authority*



SUBSCRIPTION INFORMATION

The Office of the Inspector General publishes the Procurement Bulletin on a quarterly basis. There is no charge to subscribe.

To receive the Procurement Bulletin electronically, please send an email containing your first and last name to Alexandra.Spangler@state.ma.us.

If you prefer to receive a printed copy via first-class mail, please indicate this in the email and provide your mailing address.

If you previously subscribed to the Procurement Bulletin and have not received a copy or have any other related questions, you may contact Alexandra Spangler at (617) 722-8889.

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