



Best Practices

A Checklist for Successful Recycling Procurements and Contracts for Curbside Recycling Services

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Recycling programs are a vital municipal service. Collection and processing technologies evolve, recyclable materials change, market demand and prices for recycled materials go up and down. Municipalities must navigate change while also providing services in a consistent and fiscally responsible manner. These best practices can assist Massachusetts communities to develop contractual partnerships that are win-win in changing times, not just for recycling but all solid waste services.

This guide serves as a companion to the Municipal Contracting Templates at: <https://www.mass.gov/lists/solid-waste-management-contracts-contracting>. Together these documents provide information for municipalities to understand critical issues and to secure equitable and transparent recycling services.

Information provided in this document is for general guidance only. It is not designed to be a substitute for legal counsel in procurement or contract negotiations. Public entities should always consult with technical, purchasing, and legal advisors with respect to a procurement, contract, issue, or problem.

The Procurement Process: What to Know... What to Do...

1. Clearly Define Community Objectives and Recycling Service Needs

Knowing what a community needs within their program is critical. The following are examples of questions to help define a community's objectives and needs:

Collection

- ✓ Who will be served? Residents only? Municipal buildings? Schools? Businesses? This is a critical element of your scope of services as cost impacts can be significant if not clearly defined in the procurement document and/or contract.
- ✓ How many tons and what types of materials will be collected?
- ✓ What collection methods and containers are needed (manual, automated, carts, bags, dumpsters, compactors, etc.)?
- ✓ What is the frequency of services (weekly, biweekly)?
- ✓ Who will provide the curbside containers (if the contractor, then municipality should own them after the contract)?
- ✓ Who will provide the dumpsters, roll-offs, and/or compactors (if applicable)?

Processing

- ✓ Are recyclables single stream or dual stream?
- ✓ How many tons need to be processed?
- ✓ How far is the municipality or its collector willing or able to travel to a processing facility?
- ✓ What facilities are located within reasonable distance from the municipality?

General

- ✓ What are the current levels of services and what, if any, are the desired changes?
- ✓ Should collection and processing be bundled or contracted separately? (See Section 5 below)
- ✓ Would it be advantageous to join together with other municipalities?

2. Understand the Marketplace of Service Providers

It is important to know the capacity and constraints of the local market and identify potential vendors before beginning a procurement process and before deciding which procurement and contracting method to use. Answering the following questions can help define a procurement strategy and select the right procurement method:

- ✓ Who are the collection vendors? Who are the processors? Who does both services?
- ✓ Are there independent vendors for curbside collection versus processing? Are there vendors that provide both?

3. Control the Procurement and Contract Documents

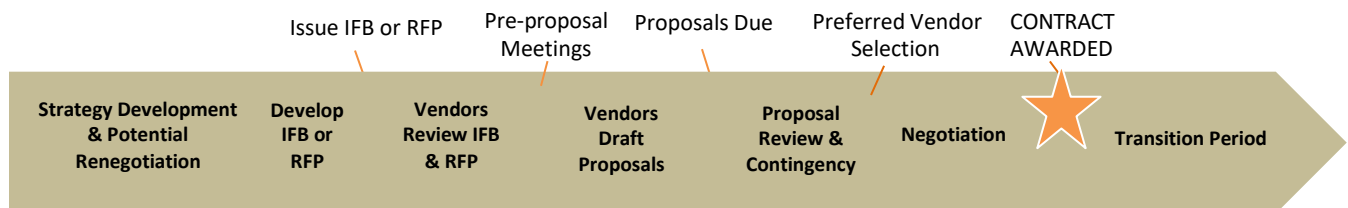
It can be tempting to use documents provided by service providers, those from another community, or the same documents as the last time. Each of these present pitfalls: old ones may not address best practices, ones from other communities may not address the municipality’s specific needs and objectives, and ones from vendors are typically designed to their advantage. The accompanying Collection and Processing Templates can provide useful information, see: <https://www.mass.gov/lists/solid-waste-management-contracts-contracting>.

4. Define a Procurement and Contracting Strategy

It is important to develop a procurement strategy to ensure goals and objectives are met and the contracting process proceeds smoothly. Choosing the appropriate procurement method, dedicating a procurement team, and developing a detailed timeline are all essential. Massachusetts Department of Environmental Protection (MassDEP) and its network of Municipal Assistance Coordinators (MACs) are available to provide advice.

It is imperative to allow enough time for the procurement, ideally at least 8 to 12 months, depending on the size of the municipality. Start by working backwards, identify the required service start date, and provide room for contingencies (i.e., local politics, community objectives, renegotiation time, equipment purchase, etc.) and develop a schedule to track progress.

Necessary Components for a Procurement Timeline



5. Select the Procurement Method that Meets Municipal Objectives

Under Massachusetts General Law (MGL) Chapter 30B, Section 1(b)(30), solid waste contracts are exempt from public bidding requirements. However, it is recommended that municipalities competitively procure solid waste and recycling services through an Invitation for Bid (IFB) or Request for Proposals



(RFP) to ensure competitive pricing and service quality. Even when using a competitive bid process, it is beneficial to include a clause that allows the municipality to make procurement decisions outside of the bidding process, should it deem this to be in its best interest. The exemption for solid waste services under M.G.L. Chapter 30B gives the municipality the discretion to follow a formal bid process for comparison purposes, and still “negotiate” with the selected firm to best meet the municipality’s needs.

Invitation for Bids Versus Request for Proposals

An IFB awards a contract to the lowest priced, qualified bidder. This is appropriate when the municipality’s needs are clear, services can be specifically defined, bidders are qualified, and price is the only determining factor. Contracting for equipment, goods, and supplies can be accomplished adequately with the IFB process.

However, an IFB is generally not recommended for recycling services because it is difficult to fully define mandatory minimum qualifications, service requirements, and performance standards necessary to meet community expectations. IFBs have greater risk of leading to substandard services.

An RFP allows the municipality to evaluate and rank vendors based on best overall value, which combines qualifications, technical approach, and cost. Price can still be the most important criteria when ranking proposals to determine best overall value.

An RFP is the most appropriate approach when services cannot be reduced to pre-defined specifications and performance standards. It is generally the recommended practice for solid waste collection and processing services.

Decoupled versus Bundled Procurements

Depending on specifics of the local marketplace (see above), municipalities should consider procuring collection and processing separately if vendors are available for each service. Issues to consider include:

- ✓ Decoupling can increase the pool of qualified vendors and thus competition.
- ✓ The cost basis of each service is fundamentally different (see “Select a More Transparent Pricing Structure” later in this Guide).
- ✓ Separate proposals (or bids) often make it easier to evaluate vendors’ offers.
- ✓ Decoupling provides the opportunity to achieve the lowest cost for each service, resulting in the lowest overall cost.
- ✓ Contractual language for each service can be easier to define clearly in separate agreements.
- ✓ Important Note: The timing of contracts should be synchronized to ensure future procurements or renewals align.

Bundled procurements are appropriate when the pool of likely vendors is limited to those that would offer both services (e.g., areas where independent processors are not readily accessible). Other factors may also contribute to a decision to bundle. When bundling, municipalities should consider:

- ✓ It can be difficult to identify the most qualified and competitive vendor. So qualifications and pricing for each service should be separate and transparent.



- ✓ Bundling means only one procurement and one contract to manage; however, a more complex contract is required to ensure a sustainable partnership.
- ✓ If the same vendor operates both services, it may have more incentive to reduce contamination and support program compliance.
- ✓ If the vendor only operates collection, it must have a durable processing contract for the length of the municipal contract.

Extensions and Renegotiation

If the current service is high quality and being offered at a fair price, the best option may be to extend the contract or renegotiate terms. But do not wait until it is too late to conduct a standard procurement. If renegotiation becomes the only viable option, the municipality has less leverage to achieve its objectives and at a fair price.

6. Identify Necessary Vendor Qualifications

The contractor qualifications need to match the community's objectives and recycling service needs.

Sample qualifications for collection services:

- ✓ Demonstrated experience collecting municipal recyclables (e.g., automated cart collection).
- ✓ Demonstrated ability to service municipalities of comparable size.
- ✓ Positive references with no history of termination or default.

Sample qualifications for MRF processing services:

- ✓ Willingness to accept index revenue share in contract
- ✓ Demonstrated experience processing municipal recyclables.
- ✓ Must own / operate a MRF or (if bundled with collection) be under contract with one throughout contract term.
- ✓ Positive references with no history of termination or default.
- ✓ Ability of the MRF to sort single stream and/or dual stream recycling to highest end markets.
- ✓ Demonstrated success marketing recyclables.

7. Negotiate Terms

After evaluating bids/proposals and selecting a preferred vendor, it is wise to enter a negotiation process. This allows for greater control on the final conditions for the contract and is an important step in defining an equitable partnership. Some key items to address:

- ✓ Reaffirm and clarify contractor's responsibilities.
- ✓ Perform best and final adjustments to contractual requirements and financial terms.
- ✓ Include a schedule for mobilization and/or transition.

The Procurement Documents: What to Know... What to Do...

1. Provide Clear Definitions

Terminology can vary across the solid waste industry resulting in financial obligations that are not transparent and not equitable to both partners. It is necessary to clearly define terms like contamination,



rejects, residue, recyclables, and recovered materials, in order to avoid misunderstandings that cause unexpected costs and complications for the municipality. The Municipal Contracting Templates provide definitions that can support clearly defined obligations and an equitable and transparent pricing structure.

2. Determine the Composition of Recyclables

Municipal recyclables contain valuable materials (even when markets are depressed) and municipalities need to be compensated for them to offset a portion of collection and processing costs.

Each municipalities' recyclables are unique. Contamination levels differ significantly from one community to the next. Knowing the actual composition is the basis for fair compensation. While a detailed composition study is ideal, it can be expensive. At a minimum, municipalities should independently determine the average percent of contamination in their recyclables and use that in the contract, not an assumed level proposed by the vendor.

The best place to measure composition is when materials are delivered to the MRF before materials become aggregated with other communities. See MassDEP's Guidance for Recycling Audits and Composition Studies for more information: <https://www.mass.gov/lists/solid-waste-management-contracts-contracting>.

3. Define Appropriate Length of Contract and Renewal Options

The term of a contract should be long enough to allow the contractor to recover capital costs but not lock the municipality into the contract for an unnecessarily long time. Typically, this is addressed by establishing a fixed initial term (e.g., five years) with potential renewals if both parties deem it a successful partnership. Bylaws may limit the length of initial and renewal terms and should be reviewed. In addition, multi-year contracts are subject to annual appropriation according to MGL Chapter 30B, Section 12 and Chapter 44, Section 31.

4. Delineate Responsibilities

Municipal rights and responsibilities must be clearly delineated. These may include:

- ✓ Monitoring and enforcement.
- ✓ Billing.
- ✓ Outreach and education.
- ✓ Access to facilities.
- ✓ Inspections.

The contractor's responsibilities must also be clearly defined to avoid confusion. These may include:

- ✓ Detailed description of the required services.
- ✓ Container requirements and vehicle standards.
- ✓ Customer services (for collection).
- ✓ Receiving and processing procedures (for recycling processing).
- ✓ Safety standards.
- ✓ Data collection and reporting.



5. Compliance with Disposal Bans

Massachusetts solid waste regulations (310 CMR 19.017) ban the disposal, or transfer for disposal, of multiple materials. Waste bans help capture valuable resources, reduce greenhouse gas emissions, ensure a steady supply of materials to recycling end-markets, cut down on disposal costs, and lessen reliance on landfills and incinerators. Contracts must clearly define municipal and contractor roles in implementing mandated waste bans. More information and resources regarding disposal bans can be found online at: www.mass.gov/guides/massdep-waste-disposal-bans.

Similarly, MassDEP prohibits the disposal of mercury-added products in solid waste. It is recommended that contracts include language that references this requirement, see:

<https://www.mass.gov/regulations/310-CMR-76-disposal-prohibition-of-mercury-added-products-in-solid-waste>.

6. Allocate Risks Equitably and Plan for Change

Some risks are within the control of the parties, such as the quantity and quality of materials, damage to public or private property, and accessibility of public roads for collection vehicles. Such risks can be managed by clearly identifying responsibilities and consequences or means of compensation.

Other risks cannot be or are difficult to control and can have unforeseen impacts on the contract. These may include major market disruptions and changes in the composition of recyclables. Contracts should include provisions for the parties to negotiate in a transparent manner if unforeseen circumstances impact the ability of either party to meet contractual obligations.

7. Select a Transparent Pricing Structure

It costs to collect and process recyclables. Fortunately, costs are partly offset by revenue from recovered materials. Establishing a transparent and equitable pricing structure requires financial compensation terms be clearly defined. Collection and processing need to be priced independent of each other because they are fundamentally different services. If they are “bundled” in a single contract, it is necessary to establish separate financial provisions for each.

Collection pricing:

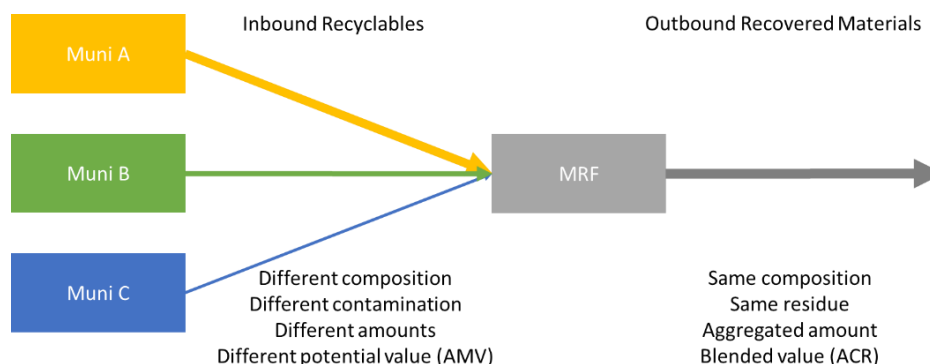
- ✓ Number of households or other service recipients (e.g., non-residential and municipal buildings).
- ✓ Type of services (e.g., materials collected and types of collection container).

Recycling Processing pricing:

- ✓ The processing fee and revenue share must be addressed separately.
- ✓ Processing fee based on tons of recyclables delivered to the facility.
- ✓ Revenue share based on tons, composition, and potential market value of recyclables delivered to the facility, known as the **Average Market Value (AMV)**.
- ✓ Potential market value based on independent, third party price indexes.

AMV based on Inbound Material composition and price indexes recognize the potential value of what a municipality delivers to a MRF, not what the MRF decides to produce and how it chooses to market it. This is different than how many MRF contracts are currently structured, which base revenue share on the **actual revenue from commodity sales** – often referred to as the **Average Commodity Revenue (ACR)** or **Blended Value (BV)**.

Using an AMV-based independent index is fundamental to transparent and equitable compensation for two primary reasons. First, as illustrated below, every municipality has unique recyclables (quantity, composition, and contamination) that differ from outbound recovered materials. The ACR is a blend of all tonnage processed, so Municipality A that has low contamination would be treated the same as Municipality B with high contamination. In effect, the ACR promotes a “lowest common denominator.” The AMV methodology can reward municipalities for reducing contamination, which can benefit the MRF and more broadly incentivize quality across the recycling chain.



Second, the ACR limits accountability and incentives to maximize revenue share. Municipalities do not control what commodities the MRF produces. For example, recyclables contain newspapers and magazines which can be sorted into a commodity (Sorted Residential Paper & News or SRPN) that is more valuable than Mixed Paper, yet the MRF may choose to produce only Mixed Paper.

A simple analogy can help illustrate this. Farmer A sells straight, grade-A carrots to a restaurant while Farmer B sells misshapen, grade-B carrots to the same restaurant. The restaurant decides to make carrot soup. Under the ACR model, the restaurant would pay both farmers the same price. Under the AMV model, the farmers would be paid based on the quality of their carrots, not what the restaurant decided to do with them.

The Recyclables Processing Template provides more detail on how the AMV can be calculated. The Audit and Composition Protocol describes best practices for determining the content of recyclables, see: <https://www.mass.gov/lists/solid-waste-management-contracts-contracting>.

8. Establish Performance Standards

Identifying expectations for vendors through clear performance standards provides a means for measuring and monitoring the quality of services being contracted. Performance standards should be paired with specific consequences for failure to achieve them. These are often referred to as liquidated damages. Common performance standards include the following:

Collection:

- ✔ Failure to provide services to all routes.
- ✔ No more than X% missed pick-ups per day.
- ✔ Failure to properly address non-conforming set outs.
- ✔ Littering of materials during collection processes.



- ✓ Mixing recyclables and trash.

Recycling Processing:

- ✓ Failure to accept recyclables due to facility breakdowns.
- ✓ No more than X minutes waiting time to tip loads.
- ✓ No more than X% of recyclables in residue.
- ✓ Disposal of recyclables or recovered materials.

9. Define Monitoring and Reporting Requirements

Accountability for meeting performance standards is achieved through monitoring and reporting. Transparent and regular communication is important to address any concerns on an ongoing basis. Common metrics include the following:

Collection:

- ✓ Missed collection or missed routes.
- ✓ Delayed services.
- ✓ Scale report detailing each load with truck number.
- ✓ Customer complaints.
- ✓ Spills & accidents.

Recycling Processing:

- ✓ Scale report detailing each load.
- ✓ Delays or interruptions in ability to receive loads.
- ✓ Documentation of any audited loads.
- ✓ Documentation of any rejected loads.

10. Reporting

Recycling service contracts should require that invoices submitted by the contractor include full documentation of the metrics monitored. Municipalities should not be required to pay invoices until proper documentation is received. For example, monthly invoices for collection service should include scale reports, number of missed collection and missed routes, number of complaints, etc. Monthly invoices for processing services should include scale reports, tons received, loads rejected, audit results, documentation of commodity indexes or revenue, and calculation of revenue share. Buyers of recovered materials should be shared with the municipality upon request.

11. Contract Monitoring and Enforcement

Signing a contract for the collection and processing of recyclable materials is not the end of a successful procurement. It takes monitoring to ensure a recycling program is operating well and to ensure vendors are meeting their obligations. The contract should define monitoring procedures and identify the municipal staff person in charge of monitoring and contract enforcement.

12. Consider Options to Drive Quality and Value

When contracting for recycling services, municipalities should seek true partnerships that incentivize both parties towards quality and value. MassDEP offers multiple resources, such as the [Recycling IQ Kit](#) and Recycle Smart MA initiative and its network of Municipal Assistance Coordinators (MACs) to help communities improve their recycling programs. Contacts are located at the end of this guide.



Additional Resources

As noted throughout this guide, MassDEP has Municipal Assistance Coordinators to assist municipalities in their procurement processes. Their contact information can be accessed online at:

www.mass.gov/service-details/massdep-waste-recycling-grants-assistance or
<https://www.mass.gov/info-details/massdep-contacts-by-topic>.

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