

Guidance for Municipalities on Opioid Abatement Funds and Chapter 30B

The Office of the Inspector General (OIG) offers the following guidance to clarify how public procurement law, specifically Chapter 30B of the Massachusetts General Laws (Chapter 30B), applies to a municipality's expenditure of opioid abatement funds. Note that all purchases using opioid abatement funds are also subject to the terms of the settlement agreements between the Commonwealth and opioid industry defendants. Please see guidance published by the [Bureau of Substance Addiction Services](#) and the [Attorney General's Office](#) for more information about the settlement agreements, including information regarding permissible uses of opioid abatement funds and municipal reporting requirements.

Massachusetts procurement law generally applies to a municipality's expenditure of opioid abatement funds.

[Chapter 30B](#) — the law that governs municipal procurement of supplies, services, and real property — applies to the expenditure of opioid abatement funds by municipalities, subject to certain statutory exceptions and exemptions.

Grant agreements may be exempt from Chapter 30B.

Pursuant to [Section 2 of Chapter 30B](#), grant agreements are not subject to the procedural requirements of the statute, provided they satisfy the following conditions:

1. The grant agreement must be between the municipality and an individual or nonprofit entity;
2. The grant agreement must be for services only, not supplies (unless incidental to the provision of the services); and
3. The grant agreement must be for a public purpose of support or stimulation, *not* to procure supplies or services for the benefit of the municipality.

Municipalities that use opioid abatement funds for public purpose grant agreements as described above may do so without using the formal procedures generally required under Chapter 30B. However, remember that these grant

agreements are still contracts, and municipalities should use open, fair, and competitive procedures for all procurements. Jurisdictions should also include appropriate terms and conditions, a detailed scope of work, and verifiable performance measures in these agreements. Carefully crafted agreements help to ensure compliance and help jurisdictions to verify that the recipients used the allocated funds for the intended public purpose.

Contracts with health professionals and local hospitals are exempt from Chapter 30B.

[Section 1\(b\) of Chapter 30B](#) contains the following exemptions that may be relevant in the expenditure of opioid abatement funds:

1. contracts with physicians, dentists, nurses, nurses' assistants, medical and laboratory technicians, and other health care providers, including diagnosticians, social workers, psychiatric workers, and veterinarians;¹
2. contracts for ambulance service by a governmental body;² and
3. contracts or agreements entered into by a municipal hospital or a municipal department of health.³

Thus, if a municipality intends to use opioid abatement funds to acquire the services of health professionals or ambulance transportation — or a municipal hospital or municipal health department intends to acquire such services — these procurements may be exempt under Chapter 30B.

In most circumstances, municipalities need to follow Chapter 30B when leasing space for opioid abatement activities.

[Section 16 of Chapter 30B](#) governs the acquisition and disposition of real property by municipalities, including leases, unless the transaction falls under a statutory exemption.

¹ [M.G.L. c. 30B, § 1\(b\)\(16\)](#).

² *Id.* at [§ 1\(b\)\(24\)](#).

³ *Id.* at [§ 1\(b\)\(27\)](#).

Note that renovations to buildings that house public programs may trigger additional requirements under other procurement laws, including building construction law⁴ and designer selection law.⁵ For more information about these requirements, visit the Office of the Attorney General's website and view [the information provided by the Fair Labor Division](#).

In most circumstances, municipal contracts with nonprofit organizations to provide services paid for with opioid abatement funds are subject to Chapter 30B.

Contracts with nonprofit organizations are not automatically exempt from Chapter 30B procedures. If a municipality contracts with a nonprofit organization to provide services, it must follow Chapter 30B unless the contract falls under a statutory exemption or is structured as a grant agreement.

Municipalities may be able to use opioid abatement funds to purchase supplies or services under statewide contracts.

If the purchase otherwise satisfies the requirements outlined in the settlement agreements, a municipality may use an existing statewide contract procured by the Operational Services Division (OSD) to purchase supplies or services in compliance with Chapter 30B.⁶ For example, [OSD contract HSP 44: Medical Commodities](#) allows state agencies and municipalities to purchase a variety of medical supplies. When purchasing from a statewide contract, remember that the contract must be open for use by municipalities, and municipalities may use it to purchase only the specific supplies or services listed in the contract.

Municipalities may be able to use opioid abatement funds to purchase supplies under cooperative contracts.

⁴ [M.G.L. c 149, §§ 44A-44J](#).

⁵ [M.G.L. c. 7C, §§ 44-58](#).

⁶ [M.G.L. c. 30B, § 1\(c\)](#).

Municipalities may use cooperative contracts **to procure supplies only** (not services).⁷ Cooperative contracts are contracts that have already been procured by another public entity in the United States. To satisfy Chapter 30B requirements, cooperative contracts must be competitively procured and must be open for use by other jurisdictions.

Municipalities can use collective or collaborative contracts, such as those procured by Opioid Abatement Collaboratives, in compliance with Chapter 30B.

Under [Section 1\(c\) of Chapter 30B](#), two or more Massachusetts jurisdictions may procure supplies or services as a group, in what is known as “collective” or “collaborative” purchasing. This procurement method allows one jurisdiction, called “the lead jurisdiction,” to procure supplies and services and award a contract for the benefit of a designated group of jurisdictions. If the lead jurisdiction fully complies with Chapter 30B during this procurement, any municipality that purchases supplies or services through that contract is considered to be in compliance with Chapter 30B. Each participating local jurisdiction must accept sole responsibility for payment for any purchases that it elects to make under the contract and for compliance with all legal requirements governing administration of the contract.

Collective contracts may be another option for jurisdictions to leverage their resources, reduce procurement time and costs, and share services. For example, two or more abutting towns can share the services of a medical provider or nonprofit agency using opioid abatement funds.

In most circumstances, contracts with consultants are subject to Chapter 30B.

Consulting is a service; therefore, contracts with consultants are generally subject to Chapter 30B. However, a contract with a consultant may be exempt from the requirements of Chapter 30B if a statutory exemption applies. For example, if a municipality determines that it requires a healthcare provider to serve as a consultant on plans for the use of opioid abatement funds, those services would likely be exempt from Chapter 30B based on [Section 1\(b\)\(16\)](#).

⁷ *Id.* at [§ 22](#).

Municipalities can direct questions about spending opioid abatement funds to OIG Public Procurement Technical Support.

The OIG's Public Procurement Technical Support team provides technical guidance and answers questions about Chapter 30B, including questions about the use of opioid abatement funds. Note that the team cannot provide legal advice; consult with counsel on questions that may implicate parties' rights and responsibilities under Chapter 30B.

You can reach OIG Public Procurement Technical Support at [617-722-8838](tel:617-722-8838), by email at OIGProcurementSupport@mass.gov, or by submitting the [online form](#). The [OIG website](#) also contains several helpful documents, including [The Chapter 30B Manual](#), which provides additional information about many of the topics addressed in this guidance.