
PROCUREMENT BULLETIN

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Get the Credit You Deserve!

In our March 1999 *Procurement Bulletin*, we announced that the American Council on Education's College Credit Recommendation Program has recommended that colleges and universities grant undergraduate and graduate credit for completion of Massachusetts Certified Public Purchasing Official (MCPPO) seminars.

To obtain a credit recommendation of three semester hours in Public Contract Administration (in Design and Construction or Supplies and Services) at the *undergraduate level*, students must complete the Public Contracting Overview and either Design & Construction Contracting or Supplies & Services courses, and complete a successful independent research paper. To obtain a credit recommendation of three semester hours in Public Contracting at the *graduate level*, students must complete all three courses and complete a successful graduate-level application project.

If you are interested in pursuing college credits, **your first step is to contact your college or university to find out if these credits may be applied towards your degree program.** If American Council on Education credit recommendations are accepted by your school, contact the Office of the Inspector General's MCPPO Program Director, Anne Tierney, at (617) 523-1205 for information on how to submit a proposal for your independent research paper or application project.

Congratulations to New MCPPOs!

The Inspector General has awarded the second round of public purchasing officials a Massachusetts Certified Public Purchasing Official (MCPPO) designation. The MCPPO program promotes:

- ♦ cost-effective, ethical, and modern purchasing practices;
- ♦ exchanges of ideas and best practices;
- ♦ stewardship of public resources; and
- ♦ compliance with Massachusetts contracting laws and regulations.

These MCPPO designations were awarded based on professional experience and successful completion of MCPPO seminars. For details on the designation requirements, call us at (617) 523-1205 or visit our website at www.state.ma.us/ig.

And Here They Are!

Listed below are the most recent recipients of MCPPO designations based on applications received before June 1, 1999:

MCPPOs

Sharon M. Andrew, Whitman Hansen RSD
Francis J. Antonelli, Greater Lowell RSVD
Silvio J. Baruzzi, East Longmeadow DPW
Roland E. Chaffee, Town of Adams
Paul E. Cohen, Town of Natick
Joseph E. Collamati, Jr., Wrentham Police Department
Kathy A. Corradi, Town of Wareham
Judith A. Curby, Wellesley DPW

continued on page four

OIG Commends Analysis for Energy Contract

The Town of Andover expects to save money on electricity for the next several years, thanks to thorough research and analysis prior to procuring its energy contract. Andover reviewed the recent electricity restructuring law before ultimately executing its contract with Peco Energy [through the Massachusetts Health and Education Facilities Authority's (HEFA) PowerOptions program].

After researching the market, in September of 1998, Andover narrowed its review to three options: its current electric company's standard offer,¹ the Peco Energy contract, and the contract offered by Select Energy through the Massachusetts Municipal Association's aggregator, MunEnergy.

Peter Johnson-Staub, Management Analyst for the Town of Andover, compiled the Town's prior electricity consumption figures, then conducted a series of comparisons. Using the prices from the three options, including allowances for varying term lengths, Johnson-Staub projected annual power costs based on recent consumption. According to Johnson-Staub, "The analysis required to evaluate the price and terms of a contract for power supply can be daunting, but the effort is worth it. We expect savings in excess of \$70,000 in the first year of the contract." Johnson-Staub calculated those savings by comparing his contract with the standard offer price. Johnson-Staub also compared other terms such as program fees,

provisions for price reductions, billing terms, financial guarantees, and energy efficiency services. Andover was not alone in conducting a detailed, methodical analysis before committing to an energy contract. Based on information obtained from awarding authorities on procuring an electricity generation contract, we learned of a number of methods undertaken by municipalities in conducting their review. Some have reported forming task forces to explore their energy options. Others compared all available proposals or sought out knowledgeable individuals, and some created committees within their jurisdictions to research energy procurement issues.

If you are interested in performing an analysis of the financial impact of your energy decisions, Johnson-Staub of Andover has offered to field questions.

Also, if your jurisdiction is contemplating signing an energy contract, you should be aware of the issues involved. You may call the Division of Energy Resource's (DOER) hotline at 1-888-758-4469 with questions. Also look for upcoming informational seminars conducted by DOER and sponsored by the OIG.

¹ The Standard Offer is a discount rate for electricity supply, as approved by the Department of Telecommunications and Energy (DTE). The Standard Offer rate is a temporary (seven-year) transitional rate between the regulated electricity rates of the past and the expected competitive market rates of the future.

Legislation Update:

IG's Office testifies for Chapter 30B and Construction Bid Law Reform

On May 19, 1999, IG staff members Lisa Price and Dan Ahern testified before the Joint Committee on State Administration in favor of House Bill 83 and House Bill 84. House Bill 83, if passed, would increase the current dollar thresholds for procurements made under M.G.L. c. 30B. House Bill 84, if passed, will reform the public construction laws by raising dollar thresholds for bidding requirements, strengthening the contractor pre-qualification system, introducing value engineering to save money on larger projects, and establishing training standards for public officials responsible for contract oversight.

Representatives from the Massachusetts Asso-

ciation of School Business Officials (MASBO) were also present to testify in favor of both bills. Additionally, the Committee received letters of support for both bills from the Massachusetts Association of Public Purchasing Officials (MAPPO), MASBO, and the Massachusetts Treasurers and Collectors Association.

Please consider voicing your support for these bills by calling your State Representative and Senator. The number to connect to your State Representative is (617) 722-2000. The number for the Senate Clerk's Office, where you may obtain your State Senator's number, is (617) 722-1276.

Questions About Chapter 30B

We issued an invitation for bids (IFB) for paper. As part of our bid submission requirements we required that each bid include samples of the vendor's paper. The lowest bidder did not submit the paper samples as required. May we accept this bid?

Yes. M.G.L. c. 30B, §5(f) requires that you waive minor informalities or allow a bidder to correct them. M.G.L. c. 30B defines minor informalities as "minor deviations, insignificant mistakes, and matters of form rather than substance of the bid, proposal or contract document which can be waived or corrected without prejudice to other offerors, potential offerors, or to the governmental body."

Since the paper samples can easily be submitted without prejudice to any other bidders, you must waive your requirement to submit the samples with the bid as a minor informality and permit the low bidder to submit samples after the bid opening. You may set a reasonable time limit for this submission.

We solicited proposals for a food service contract for our school cafeteria. One proposer failed to submit a certificate of good faith form as required by M.G.L. c. 30B and in conformance with the request for proposal (RFP) requirements. Must we reject this proposal?

Yes. Massachusetts courts have held that an awarding authority must reject a bid that fails to meet a substantive statutory requirement. Since M.G.L. c. 30B requires that bidders and proposers include a certificate of good faith with their bids or proposals, it is our opinion that you may not waive the proposer's omission as a minor informality and you must reject that proposal.

Our fire department recently put out a bid for a fire vehicle. The specifications required a particular model of Goodyear tires for the vehicle. Elsewhere in the specifications, a gen-

eral provision stated that all brand names listed in the specifications were for description purposes only and were not meant to exclude competition. The low bidder offered a fire vehicle with Michelin tires instead of Goodyear tires. The fire chief has determined that the Michelin tires offered meet the specification requirements. May we accept the bid with this deviation?

Yes. M.G.L. c. 30B requires that you award a contract to the responsive and responsible bidder offering the best price. An awarding authority must reject a bid if it does not conform to the bid specifications in material respects. Since the awarding authority reserved the right to accept alternate brands, the low bid does not deviate from the specifications.

In this instance, the IFB stated that brand names were used for description purposes only, thereby notifying bidders that other brand names were potentially acceptable. As long as the awarding authority has determined that the substitute brand is equal in quality to the brand listed, it does not violate Massachusetts law to accept a different brand because it conforms with the bid specifications.

NOTE: We recommend that you avoid the use of brand names in an IFB or RFP. The use of brand names tends to generate bid protests and engender disputes as to whether other brand names are truly equal.

Performance specifications state what a product must do rather than describe how a product is made. Performance specifications promote competition, place responsibility on the vendor for ensuring that your product will do what you want it to do, and encourage vendors to use the most current available technology. To avoid disputes, we recommend the use of performance specifications or other, nonproprietary descriptions for commercially available products.

New MCPPOs, continued

George E. Dow, Sr., Town of North Reading
 John D. Foster, Dartmouth Fire District #1
 Ronald G. Guest, City of Marlborough
 Sheldon C. Hamblin, Mashpee Fire and Rescue
 Joel V. Harding, Stoughton Public Schools
 Todd K. Hassett, Foxborough Public Schools
 William J. Kelly, MWRA
 Marie E. Killackey, City of Cambridge
 Joseph W. Koncas, Northampton Police Department
 Fred G. LaPiana, Tisbury DPW
 Kathryn L. McAlduff, Quincy DPW
 James M. McLaughlin, Town of Lexington
 Judith A. Mulligan, Beverly Public Schools
 Jeanne Murray, Blackstone Valley RSVD
 Kevin F. Oliver, Swampscott Public Schools
 Cheryl A. Robertson, Town of Billerica
 Bruce E. Roscoe, Brockton Housing Authority
 Charles A. Simmons, Town of Brookline
 Jane H. Spellman, Town of Ipswich
 Robert D. Sprunger, Auburn Public Schools
 Alan F. Taubert, Swampscott DPW
 Robert B. Tone, Jr., City of Pittsfield
 William J. Trifone, Dudley-Charlton RSD
 Mary M. Will, Dover-Sherborn RSD

Associate MCPPOs

Christopher J. Bradley, City of Beverly
 Heather A. Connolly, MBTA
 Alfred J. Grazioso, Jr., City of Quincy
 Steven P. Greenberg, Masconomet RSD
 Jeannine B. Reardon, Town of Braintree

MCPPOs for Supplies and Services

William D. Hedlund, Town of Braintree Parks & Recreation Dept.
 Carole A. Kelley, State/ Sheriff's Department
 James Lanciani, Jr., City of Leominster
 David P. Nero, City of Boston Auditing Dept.
 Paul R. Petit, Southwich-Tolland RSD
 Kenneth Temkin, Newton Public Schools

MCPPO for Design and Construction Contracting

Ann M. Guastaferrero, City of Lawrence

Associate MCPPO for Design and Construction Contracting

Steven M. Moore, Hull Public Schools

The Changing Landscape of Public Purchasing

This year marks the tenth anniversary of the enactment of Chapter 30B of the Massachusetts General Laws, the Uniform Procurement Act. Public purchasing has undergone profound changes over the past decade. Some of these changes have been driven by the explosion in information technology, which has created both opportunities to improve efficiency and challenges to manage an onslaught of information and change. In addition, we at the IG's Office have witnessed a revolution in attitudes. Whereas public purchasing used to be regarded as little more than a series of administrative tasks, it is now widely accepted as a professional field that demands expertise, initiative, and judgment.

National organizations like the National Institute for Government Purchasing and National Association of State Purchasing Officials are also reporting fundamental changes in the perception of public purchasing on the federal and state levels. Federal and state purchasing professionals are no longer regarded by the agencies they serve as bureaucrats whose main function is to administer draconian procurement rules. Instead, many federal and state purchasing officials now take an active role in conducting market research and in helping government agencies keep abreast of changing technology to improve service and cut administrative costs.

We spoke with three local government officials to get their perspectives on the changing landscape of public purchasing in their communities and how it affects their jobs. This is what we learned:

Cathy D'Orazio, CPO for the City of Medford, has been in the public purchasing field since 1991. The most significant change she has experienced has been the increasing level of expertise among public officials with purchasing responsibility. Increased education and better un-

continued on the next page

The Changing Landscape of Public Purchasing, continued

Understanding of the law have gone hand-in-hand with a changing political atmosphere, in which elected officials respect and support professionalism in purchasing. From Cathy's perspective, the major change brought about by high technology has been increased access to information.

Ralph Dumas has been the School Business Manager for Nashoba Valley Technical High School since December of 1989. Because purchasing is just one of Ralph's many responsibilities, his greatest challenge has been dealing with complex procurements under strict time constraints. One of the positive changes he has observed is the development by Massachusetts school officials of excellent model bidding documents for school bus transportation. These documents have made it possible to maximize competition on the largest contract the District awards. In other areas, Ralph reports more difficulty in obtaining competition. For example, the District's milk bid this year attracted little competition, so the District rejected the bids in favor of using a statewide contract to purchase milk. Another area that presents a challenge is developing specifications for high technology acquisitions, such as specialized software applications and telephone systems. Ralph has found the statewide contracts for information technology to be time-savers.

Mark Twogood, CPO for the Town of Winchester, has worked in public purchasing since 1982. According to Mark, purchasing in his community has undergone a great deal of positive change during his career, and the Town has benefited from more competitive purchasing and better contracts. In Winchester, departmental purchases go through the Town Manager's office for approval. Mark has observed that since 1990, getting competition for purchases has become second nature to Town departments. The Town has also benefited from its own experience by working with its legal counsel to develop contract terms that protect its interests in contractual relationships. For example, the Town now typically adds indemnity clauses to service contracts to protect taxpayers from risks that are under the control of the contractor. Mark also notes that the Town has de-

veloped the technical expertise through its purchasing department to handle its information technology acquisitions. This expertise has allowed the Town to get effective competition in the marketplace by advertising for proposals. In addition, the Town has recently started using the Internet, which has greatly facilitated access to information from state agencies.

The IG's Office, with the help and enthusiastic support of local purchasing officials, has proposed amendments to M.G.L. c. 30B to keep pace with the changing times. We welcome your comments on M.G.L. c. 30B and on other issues that affect public purchasing in your community. You can fax comments to us at (617)723-2334.

Tip for Writing IFBs and RFPs

IFBs and RFPs are easier to read and understand when you use separate headings to organize the various elements of your solicitation. This is especially true when it comes to distinguishing between **bid submission requirements** and **quality requirements**.

Bid submission requirements are forms, documents, or samples, such as certificates of insurance or reference lists, that you require bidders to submit with their bids or proposals. The omission of these items from a submitted bid or proposal is often correctable. (For an exception, see the related article on page three pertaining to omission of the certificate of good faith.)

Quality requirements are tangible or quantifiable characteristics of the supply or service you are procuring, or they may describe the qualifications a vendor must possess in order to be eligible for your contract. If a bid or proposal does not meet a quality requirement, it usually must be rejected. Separating these sections of your IFB or RFP will simplify your evaluation process and ensure that vendors fully understand your requirements.

MCPPO

Excellence in Public Procurement

The Commonwealth of Massachusetts
Office of the Inspector General
P.O. Box 270 – State House Station
Boston, MA 02133
(617) 727-9140

MASSACHUSETTS CERTIFIED PUBLIC PURCHASING OFFICIAL PROGRAM

Demonstrate Your Professional Commitment to Excellence in Public Procurement

The MCPPO Program has been designed to promote: Anyone who is responsible for or interested in procurement by cities, towns, districts, or authorities in the Commonwealth of Massachusetts will benefit from this program, including:

- ✓ Cost-effective, ethical, and modern purchasing practices
- ✓ Dialogue and exchange of ideas and best practices among procurement officials
- ✓ Stewardship of resources in the public's interest
- ✓ Compliance with Massachusetts laws

LEARN FROM THE EXPERTS

Seminar instruction will be provided by experienced staff of the Office of the Inspector General, the Office of the Attorney General, the Department of Labor's Division of Occupational Safety, and the State Ethics Commission.

- Procurement officials
- School business officials
- Department heads and support staff
- Housing authority officials
- Public works officials
- Water department commissioners
- Public managers and administrators
- Public and private auditors, accountants and attorneys
- Contracting officers
- Superintendents
- Public safety and law enforcement officials

EARN THE MCPPO DESIGNATION

Purchasing officials who possess the requisite qualifications and experience are eligible to apply for a MCPPO Designation upon the successful completion of the Public Contracting Overview seminar and one specialized seminar. Purchasing officials will be required to continue education in public procurement to maintain the MCPPO Designation. For more information contact Anne Tierney, Director or Genesi Dorsey, Coordinator at (617) 523-1205.

Public Contracting Overview

Tuition for this seminar is \$200.

Designed to provide an overview of legal requirements for public contracting with hands-on workshops that apply contracting knowledge and skills to practical problems faced by the procurement official. A *prerequisite for specialized seminars*, this dynamic seminar is invaluable for purchasing officials who are experienced and those who have recently entered the field or are working in a support capacity. Attend this dynamic and comprehensive 3-day seminar and learn about:

- Obtaining Best Value
- Public Purchasing Principles and Goals
- Overview of State Procurement Statutes
- Sources of Law and Legal Requirements for Public Contracts
- Public Contracts Under Article 2 of the Uniform Commercial Code
- Practical Considerations for Contract Drafting
- Consumer Protection, Fraud in Procurement, and Antitrust Laws
- Fair Labor Standards
- Ethics Laws and Considerations

Supplies and Services Procurement

Prerequisite: Public Contracting Overview

Tuition for this seminar is \$200.

Comprehensive and challenging, this 3-day seminar focuses on procurements under the Uniform Procurement Act, M.G.L. c. 30B. Presented in an easy to follow, hands-on workshop format, participants are guided through practical applications of this law. Participants attending this challenging seminar will learn about:

- Overview of the Supplies and Services Procurement Law
- Writing Effective Specifications
- Obtaining Best Value using an Invitation for Bids
- Making the Request for Proposals Process Work for You
- Common Bidding Problems and How to Resolve Them
- Effective Contract Administration
- Multi-Year Contracts, Leases, and Lease-Purchases
- Public-Private Partnerships

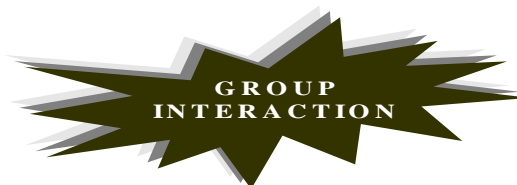
Design and Construction Contracting

Prerequisite: Public Contracting Overview

Tuition for this seminar is \$300.

This in-depth 3-day seminar is tailored to professionals facing the complex issues of today's contracts, focusing on design, public building construction, and public works construction. You will learn practical applications and effective strategies to guide you through contract procurement and management. Focusing on best value project development and delivery, attendees will learn about:

- The Project Development Process
- Procuring Architectural and Engineering Services
- Construction Bidding Laws: Legal Requirements and Practical Applications
- Selecting Qualified Contractors
- Effective Design and Construction Contract Administration
- Proprietary Specifications
- Common Bid Protests



**MASSACHUSETTS CERTIFIED PUBLIC PURCHASING OFFICIAL PROGRAM
REGISTRATION**



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Commonwealth of Massachusetts
Office of the Inspector General
P.O. Box 270- State House Station
Boston, MA 02133
(617) 727-9140

1999

PUBLIC CONTRACTING OVERVIEW

(prerequisite for ALL specialized seminars)

Tuition is \$200.

EARN 20 CPE and 2 CEU CREDITS QUALIFY FOR 20 PDP'S

SELECT 1ST AND 2ND CHOICE

- JUNE 22-24 BOSTON
- SEPT 14-16 BOSTON
- SEPT 28-30 WESTERN MA
- NOV 30-DEC 2 BOSTON

SUPPLIES & SERVICES PROCUREMENT

Tuition is \$200.

EARN 20 CPE and 2 CEU CREDITS QUALIFY FOR 20 PDP'S

SELECT 1ST AND 2ND CHOICE

- JUNE 2-4 BOSTON
- JULY 13-15 ANDOVER
- AUGUST 10-12 TAUNTON
- NOV 3-5 BOSTON
- NOV 17-19 WESTERN MA

DESIGN & CONSTRUCTION CONTRACTING

Tuition is \$300.

EARN 20 CPE and 2 CEU CREDITS QUALIFY FOR 20 PDP'S

SELECT 1ST AND 2ND CHOICE

- JUNE 8-10 WORCESTER
- JULY 27-29 BOSTON
- OCT 19-21 CAPE
- DEC 14-16 BOSTON

For More Information:

Please contact Anne Tierney, Director or Genesi Dorsey, Program Coordinator at (617) 523-1205.

This form may be duplicated.

REGISTRATION: Registration and payment must be received 10 days prior to course date in order to process a confirmation.

OFF-SITE REGISTRATION AND PAYMENT MUST BE RECEIVED 30 DAYS PRIOR TO SEMINAR DATE IN ORDER FOR THIS OFFICE TO CONFIRM SEMINAR. Off-site seminars will be confirmed based on a minimum of 50 registrants. In the event of cancellation of an OFF-SITE location, the seminar will revert back to the BOSTON location or an alternate date will be offered. Confirmation letters, with directions, will be mailed 10 days prior to seminar.

TUITION FOR PUBLIC OFFICIALS:

Public Contracting Overview
(Prerequisite) \$200.
Supplies and Services \$200.
Design and Construction \$300.

FAX REGISTRATION & P.O. TO RESERVE SEATING (617-723-2334)

MAIL ORIGINAL TO address above.
ATTN: MCPPO
MAKE CHECK PAYABLE TO: OIG

SUBSTITUTIONS/CANCELLATIONS: Each seminar is limited and filled on a space available basis. No cancellations accepted and no refunds. Registration transfer to someone in your organization is possible with prior notice. The OIG reserves the right to cancel/reschedule any seminar and is not responsible for any costs incurred by registrants. Alternate course dates may be substituted in the event of an emergency, upon notification. Change in seminar date and/or cancellations received (FAX) less than 2 business days prior to the seminar date are subject to a \$25 transfer fee – NO SHOWS WILL BE INVOICED A \$50 SERVICE CHARGE.



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Based on the 1995-1996 State Plan for Professional Development.



The American Council on Education's College Credit Recommendation Program.

PAYMENT: CHECK/M.O. PURCHASE ORDER #

NAME: _____ PHONE: _____

SIGNATURE OF APPLICANT: _____

ORGANIZATION/JURISDICTION: _____

TITLE: _____ FAX: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

HOW LONG HAVE YOU BEEN EMPLOYED AS A PURCHASING OFFICIAL?

IN THE EVENT OF CANCELLATION, PLEASE PROVIDE HOME PHONE NUMBER:

Commonwealth of Massachusetts
Office of the Inspector General
One Ashburton Place, Room 1311
Boston, MA 02108

An Overview of Electric Utility Restructuring & Public Power Procurement

Sponsored by
The Office of the Inspector General
with
The Division of Energy Resources

This four-hour workshop, developed specifically for municipal procurement officials, town administrators, elected officials, and other interested parties, provides an overview of the impact of the Massachusetts Electric Utility Restructuring Act on public power procurement. Topics for discussion include:

Introduction to Restructuring
Market Overview
Municipal Options for Buying Power
Standard Offer v. Default Service
Choosing a Power Supplier

- | | |
|----------------------------------|----------------------------|
| ✓ Developing a Business Strategy | ✓ Ancillary Services |
| ✓ Shopping for a Better Deal | ✓ Environmental Attributes |
| ✓ Evaluating Options | ✓ Streetlighting |
| ✓ Legal Framework | ✓ Practical Considerations |

Participants in this workshop will help identify areas of interest that will be addressed in workshops next fall.

Contact Anne Tierney at (617) 523-1205 for information on dates and times.

THE POWER IS YOURS
The Commonwealth of Massachusetts

