

MAPPO Conference

Collaborative vs. Cooperative
Purchasing Agreements



The seal of the Massachusetts Office of the Inspector General is a circular emblem. It features a central shield with a blue field containing a white star and a yellow figure holding a staff. The shield is flanked by two yellow figures holding shields. The outer ring of the seal contains the text "OFFICE OF THE INSPECTOR GENERAL" at the top and "MASSACHUSETTS" at the bottom, separated by a banner.

MAPPO Conference

Cooperative Purchasing Agreements

Cooperative Purchasing Agreement

STATUTES/DEFINITIONS

- Statute [M.G.L. c. 30B, §22]
 - **A public procurement unit** may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of supplies with public procurement units or **external procurement activities** in accordance with an agreement entered into between the participants. The public procurement unit conducting the procurement **of supplies** shall do so in a **manner that constitutes a full and open competition.**

Cooperative Purchasing Agreement

STATUTES/DEFINITIONS

- M.G.L. c. 30B, § 2
 - “Cooperative purchasing agreement”
 - Procurement conducted by, or on behalf of, more than one public procurement unit **or** by a public procurement unit with an external procurement activity.
 - “Local public procurement unit”
 - A political subdivision or unit thereof which expends public funds for the procurement of supplies.

Cooperative Purchasing Agreement

STATUTES/DEFINITIONS

- M.G.L. c. 30B, § 2
 - “Governmental body”
 - A city, town, district, regional school district, county, or agency, board, commission, authority, department or instrumentality of a city, town, district, regional school district or county.

Cooperative Purchasing Agreement

- M.G.L. c. 30B, § 2
 - External procurement activity
 - a) a public agency **not located in the commonwealth** which would qualify as a public procurement unit;
 - b) buying by the United States government

Cooperative Purchasing Agreement

BEST PRACTICES

- Confirm eligibility and competitive procurement
 - Confirm both that the contract was subject to a competitive process and that it is open to Massachusetts jurisdictions that are subject to M.G.L. c. 30B
 - Be wary of cooperative purchasing contracts that are akin to mere approved vendor lists

Cooperative Purchasing Agreement

BEST PRACTICES

- Did the cooperative purchase agreement do the following:
 - Use a specific purchase descriptions in the solicitation;
 - Provided for renewed competition;
 - Use a clear rule for award or determination of best value in its solicitation; and
 - Use an appropriate comparative evaluation process for choosing vendors.

Cooperative Purchasing Agreement

BEST PRACTICES

- Competitive process
 - Understand the terms of the cooperative contracts and the legal and contractual obligations they impose?
 - Check market prices
 - Are the prices reasonable?
 - Are the prices a good value? and
 - Are the prices a sound and prudent business practice?

Cooperative Purchasing Agreement

BEST PRACTICES

- Conduct market research
 - Is using the cooperative agreement a better deal than conducting your own Chapter 30B procurement process?

Cooperative Purchasing Agreement

BEST PRACTICES

- Verify what the contract offers
 - Understand the terms of the cooperative contracts and the legal and contractual obligations they impose
 - Is the product what you need/want (Do not “settle” for the sake of convenience)

Cooperative Purchasing Agreement

BEST PRACTICES

- Verify what the contract offers (continued)
 - Only purchase what has been specified and competitively procured through the cooperative contract
 - Do NOT assume that if a vendor is approved to sell one product, that vendor is also approved to provide other products to your jurisdictions

Cooperative Purchasing Agreement

BEST PRACTICES

- Verify what the contract offers (continued)
 - Follow all rules/requirements of the cooperative agreement
 - If you do not follow the contract requirements it is an invalid procurement.

Cooperative Purchasing Agreement

GSA

- [M.G.L. c. 30B, §1 (f)]
 - This chapter shall be deemed to have been complied with on all purchases made from a vendor pursuant to a General Services Administration federal supply schedule that is available for use by governmental bodies

Cooperative Purchasing Agreement

GSA

- The GSA serves as a centralized procurement and property management agency for the federal government.
- You will need to confirm with the GSA that the federal supply schedule that interests you is available for local jurisdictions to use.

Cooperative Purchasing Agreement

GSA

- All other purchases will remain subject to M.G.L. c.30B, that is:
 - Under \$10,000, follow sound business practices
 - Seek price quotations for contracts valued between \$10,000 and \$35,000.
 - Issue an advertised, sealed bid/proposal for contracts valued over \$35,000

Cooperative Purchasing Agreement

GSA

- Example of available GSA schedules:
 - **Schedule 70 and Schedule 84.**
 - **Schedule 70** includes general purpose commercial information technology equipment, software and services.
 - **Schedule 84** includes total solutions for law enforcement, security, facility management systems, fire, rescue, special purpose clothing, marine craft, and emergency/disaster response

Cooperative Purchasing Agreement

GSA

- Example of available GSA schedules:
 - The 1122 “Counter-drug” Program permits you to purchase law enforcement equipment, provided that the equipment is used in the performance of counterdrug activities.
 - GSA schedules to facilitate recovery from a major disaster, terrorism, or nuclear, biological, chemical, or radiological attack

Cooperative Purchasing Agreement

GSA

- Example of available GSA schedules:
 - The National Wildland Fire Program permits the purchase wildland fire protection equipment and supplies
 - For more information on which GSA supply schedules are available to you, please visit <http://www.gsa.gov/portal/content/105300>

Cooperative Purchasing Agreement

COOPERATIVE PURCHASES

- Pursuant to Chapter 30B, § 22,
 - Local jurisdictions may purchase supplies (but not services) from contracts that have already been procured by an in-state or out-of-state political subdivision, or unit of a political subdivision, or a federal or state agency, as long as the contract is open to local jurisdictions and was procured in a manner that constitutes full and open competition.

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MAPPO Conference

Collective (Collaborative) Purchasing

Collective Purchasing

a.k.a. COLLABORATIVE

- Chapter 30B and M.G.L. c. 7, § 22B, authorize two or more local jurisdictions to solicit bids for supplies or services as a group.
 - This procurement method authorizes one local jurisdiction, called “the lead jurisdiction,” to procure supplies and services and award a contract for the benefit of a designated group.

Collective Purchasing

a.k.a. COLLABORATIVE

- The lead jurisdiction undertakes the bid process in full compliance with Chapter 30B, and 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 Purchasing

a.k.a. COLLABORATIVE

- M.G.L. c. 7, § 22A (OSD)
 - [Chapter 30B jurisdictions] may make purchases of materials, supplies, equipment or services through the state purchasing agent **subject to such rules, regulations and procedures** as may be established from time to time by the purchasing agent
- Failure to comply with OSD rules results in non-compliance with Chapter 30B

Collective Purchasing

a.k.a. COLLABORATIVE

- M.G.L. c. 7, § 22B
 - Group is established PRIOR to contract (no piggybacking)
 - Local jurisdictions may NOT convert the "Collective" purchase into a statewide cooperative agreement

Collective Purchasing

OPERATIONAL SERVICES DIVISION (OSD)

- The Operational Services Division (OSD) awards a variety of statewide contracts that local jurisdictions may use without conducting a separate Chapter 30B procurement process.

Collective Purchasing

OPERATIONAL SERVICES DIVISION (OSD)

- Some of these contracts have specific rules that must be followed.
- In the absence of specific rules...we recommend that you solicit quotes from each of the vendors on the statewide contract and award the contract to the responsible vendor offering the needed quality of supplies or services at the lowest price.

Collective Purchasing

OPERATIONAL SERVICES DIVISION (OSD)

- Your jurisdiction must understand and comply with contract terms and conditions and should verify with OSD that the vendor is authorized to sell the item(s) it is buying.
 - We strongly recommend that a local jurisdiction execute its own contract with a statewide contract vendor, including any additional legal terms.

Collective Purchasing

OPERATIONAL SERVICES DIVISION (OSD)

- Incorporate the terms of the statewide contract into your contract; you ensure that the benefits of the statewide contract are applicable to your jurisdiction.
- You are responsible for contract management, performance issues and payment issues relative to the contract.

Collective Purchasing

COMMONWEALTH DEPARTMENT CONTRACT PURCHASES

- Local jurisdictions may use certain supply or service contracts procured by Commonwealth “departments” (a term that includes any office, department, agency, division, board, commission or institution within the executive branch) that procure commodities or services subject to 801 CMR 21.00.

Collective Purchasing

COMMONWEALTH DEPARTMENT CONTRACT PURCHASES

- Any local jurisdiction using a state department contract must execute its own contract, including any additional legal terms, with the vendor and is responsible for any contract management, performance or payment issues relative to the contract.

Collective Purchasing

OTHER EXAMPLES

- Massachusetts Higher Educational Collaborative (MHEC)
- Regional Planning Commissions
- Metropolitan Area Planning Council (MAPC)

Questions

THANK YOU!

