

Uniform Procurement Act
M.G.L., Ch. 30b

Section 2. As used in this chapter the following words shall, unless the context requires otherwise, have the following meanings:—

“Architect and engineer”, (i) a person performing professional services of an architectural or engineering nature, as defined by law, which are required to be performed or approved by a person licensed, registered or certified to provide such services as described herein; (ii) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, investigations, inspections, tests, evaluations, consultations, program management, value engineering, construction, alteration, or repair of real property; and (iii) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions and individuals in their employ may logically or justifiably perform, including studies, investigations, surveying and mapping, soil tests, construction phase services, drawing reviews, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, soils engineering, cost estimates or programs; preparation of drawings, plans, or specifications, supervision or administration of a construction contract, construction management or scheduling, preparation of operation and maintenance manuals and other related services.

“Bid”, a written offer to provide a supply or service at a stated price submitted in response to an invitation for bids.

“Chief procurement officer”, the purchasing agent appointed pursuant to section one hundred and three of chapter forty-one, or as to any city or town which has not accepted said section, an individual duly appointed in a city having a city manager, by the city manager, in a town having a town manager, by the town manager, in any other town, by the selectmen, or, in any city or town otherwise providing by charter or local by-law for the appointment of a chief procurement officer, in accordance with such charter or local by-law, to procure all supplies and services for the city or town and every governmental body thereof; an individual duly appointed in a district by the prudential committee, if any, otherwise the commissioners to procure all supplies and services for the district; an individual duly appointed in a regional school district by the regional school district committee to procure all supplies and services for the regional school district; an individual duly appointed in a county having a county executive, by the county executive, or in any other county, by the commission, to procure all supplies and services for the county and every governmental body

thereof; or an individual duly appointed by the governing board of an authority or other governmental body to procure supplies and services for the authority or governmental body.

"Contract", all types of agreement for the procurement or disposal of supplies or services, regardless of what the parties may call the agreement.

"Contractor", a person having a contract with the governmental body.

"Cooperative purchasing", procurement conducted by, or on behalf of, more than 1 public procurement unit or by a public procurement unit with an external procurement activity.

"Electronic bidding", the electronic solicitation and receipt of offers to contract for supplies and services; provided, however, that offers may be accepted and contracts may be entered into by use of electronic bidding.

"Employment agreement", any agreement between a governmental body and an individual pursuant to which (1) the governmental body withholds or is required to withhold taxes on the individual's wages pursuant to the Internal Revenue Code or chapter sixty-two B; or (2) the governmental body and the individual stand under common law rules in the legal relationship of employer and employee.

"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.

"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.

"Grant agreement", an agreement between a governmental body and an individual or nonprofit entity the purpose of which is to carry out a public purpose of support or stimulation instead of procuring supplies or services for the benefit or use of the governmental body.

"Invitation for bids", the documents utilized for the soliciting of bids, including documents attached or incorporated by reference.

"Labor relations representative", a person designated to represent a public employer and act in its interest in dealing with public employees pursuant to chapter one hundred and fifty E.

"Local public procurement unit", a political subdivision or unit thereof which expends public funds for the procurement of supplies.

“Majority vote”, as to any action by or on behalf of a county or instrumentality of the county, a simple majority of the commission; a city, town, or district, a majority vote as defined in section one of chapter forty-four; a regional school district, an affirmative vote by two-thirds of the members of the regional district school committee; or a housing authority, a simple majority of its members.

“Minor informalities”, 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 the governmental body.

“Person”, any natural person, business, partnership, corporation, union, committee, club, or other organization, entity or group of individuals.

“Procurement”, buying, purchasing, renting, leasing, or otherwise acquiring a supply or service, and all functions that pertain to the obtaining of a supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

“Procurement officer”, an individual duly authorized pursuant to law, charter, or local by-law to procure a supply or service for a governmental body or to dispose of a supply, including an individual duly delegated to take any action in connection with a procurement, and further including any member of a board, committee, commission, or other body who participates in a procurement.

“Proposal”, a written offer to provide a supply or service at a stated price submitted in response to a request for proposals.

“Public procurement unit”, a local public procurement unit or a state public procurement unit.

“Purchase description”, the words used in a solicitation to describe the supplies or services to be purchased, including specifications attached to or incorporated by reference into the solicitation.

“Related professionals”, professionals engaged in professional services, including land surveying, landscape architecture, environmental science, planning and licensed site professionals, which are required to be performed or approved by a person licensed, registered or certified to provide such services as described herein, including professional services performed by contract that are associated with research, planning, development, design, investigations, inspections, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, value engineering, construction, alteration or repair of real property and such other professional services or incidental services which members of the related professions and individuals in their employ may logically or justifiably perform, including master plans, studies, surveys, soil tests, cost estimates or

program, preparation of drawings, plans or specifications, supervision or administration of a construction contract, construction management or scheduling, conceptual designs, plans and specifications, construction phase services, soils engineering, drawing reviews, cost estimating, preparation of operation and maintenance manuals and other related services; provided, however, that nothing herein shall be construed to constitute regulation or oversight of any designated firms or identified professional services.

“Request for proposals”, the documents utilized for soliciting proposals, including documents attached or incorporated by reference.

“Reverse auction”, an internet-based process used to buy supplies and services whereby the sellers of the supplies or services being auctioned anonymously bid against each other until time expires and until the governmental body determines from which sellers it will buy based on the pricing obtained during the process.

“Responsible bidder or offeror”, a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance.

“Responsive bidder or offeror”, a person who has submitted a bid or proposal which conforms in all respects to the invitation for bids or request for proposals.

“Services”, the furnishing of labor, time, or effort by a contractor, not involving the furnishing of a specific end product other than reports. This term shall not include employment agreements, collective bargaining agreements, or grant agreements.

“Sound business practices”, ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.

“State public procurement unit”, the offices of the chief procurement officers and any other purchasing agency of the commonwealth or any other state.

“Supplies”, all property, other than real property, including equipment, materials, printing, and insurance and further including services incidental to the delivery, conveyance and installation of such property.