



The Commonwealth of Massachusetts
Office of the Inspector General

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April 15, 2011

Mr. William Grubbs
Equipment Coordinator
Boston Public Schools Department of Food and Nutrition Services
11B Charles Street
Boston, MA 02122

Dear Mr. Grubbs:

As you know, the Massachusetts Office of the Inspector General (OIG) reviewed the Boston Public School District (District) June 2009 receipt of a \$203,500 Richard B. Russell National School Lunch Program Equipment Assistance Grant awarded by the Department of Elementary and Secondary Education (DESE) under the American Recovery and Reinvestment Act (ARRA).

The OIG is reviewing ARRA-related grants to identify potential vulnerabilities to fraud, waste, and abuse and other risks that could negatively impact the accountability, transparency, and anti-fraud mandates contained in the statutory language and interpretive guidance of ARRA. This review should not be construed as an investigation of the program or a comprehensive programmatic review. The OIG intends these reviews to assist recipients of ARRA funding to identify and address risks. This review focused on the District's procurement practices.

According to the grant application, the District purchased the following equipment for these 18 schools:

Item No.	School	Equipment	Estimate Cost Approved by DESE	Actual Cost of Equipment Including Installation
1.	Aggasiz Elementary	steamer	\$16,000	\$18,024
2.	Brighton High	blast chiller	6,500	7,128
3.	Charlestown High	convection oven	10,000	7,968
4.	Mary Curley K-8	steamer & steam generator	28,000	25,823
5.	Dearborn Middle	blast chiller	6,500	6,807
6.	Edison K-8	counter top steamer	7,000	6,234
7.	Edwards Middle	blast chiller	6,500	6,778
8.		walk-in freezer	10,000	8,991

9.	Gavin Middle	walk-in freezer ¹	9,000	8,335
10.		blast chiller	6,500	7,054
11.	Harvard-Kent Elementary	steamer	17,000	18,429
12.	Hennigan Elementary	double stacked convection oven	9,000	10,435
13.	Hernandez K-8	blast chiller	6,500	6,687
14.	Lee Elementary	double stacked convection oven	9,000	8,467
15.	Marshall Elementary	double stacked convection oven	9,000	12,634
16.	McCormack Middle	double stacked convection oven	10,000	9,141
17.	McKay K-8	blast chiller	6,500	6,879
18.	Rogers Middle	blast chiller	6,500	7,438
19.	Timilty Middle	blast chiller	6,500	6,960
20.		walk-in freezer	7,500	8,845
21.	Trotter Elementary	2 door reach-in refrigerator	10,000	5,450
Total			\$203,500	\$204,507 (including \$1,007 in district funds)

The OIG review identified two instances where the District's procurement process did not comply with M.G.L. c.30B (Chapter 30B), the Uniform Procurement Act: the purchase of eight blast chillers (chart item nos. 2, 5, 7, 10, 13, 17, 18, 19) and the purchase of two steamers (chart item nos. 1, 11). The OIG also identified one instance where the district did not comply with M.G.L. c.149, the public building construction law.

The District chose to use a quote process to purchase blast chillers for eight schools. The District obtained three quotes for the chillers as follows: \$6,823 (\$54,584 in total), \$6,379 (\$51,032 in total), and \$6,125 (\$49,000 in total) and chose the vendor offering the lowest price of \$6,125 per item. However, since the District used a quote process for like items with an aggregate value of \$49,000, the quote process used violated Chapter 30B. To comply with Chapter 30B, purchases exceeding \$24,999 require a formal bid process. The District could have purchased the chillers using a statewide contract (SWC) per M.G.L. c.7, §22A and M.G.L. c.30B, §1(c), or used a formal Invitation for Bids (IFB) or Request for Proposals (RFP).

Additionally, the District contracted electrical work to install the new blast chillers in each school without using a competitive process. The District hired one vendor to perform installation for five of the chillers and paid for each installation separately. The District paid this vendor \$4,485 for installing five chillers. For the remaining three chillers, the district used a different vendor, also paying for each installation separately, for a total of \$2,245. Installation falls under M.G.L. c.149 which, during the time of purchase (September 2009), required the solicitation of three written quotes for services estimated to cost between \$5,000 and \$10,000.² Since installation cost a total of

¹ While the multiple ovens and walk-in freezers are labeled as the same items in this chart, they are not like items as was the case with the blast chillers. They are different make/model, gas/electric, and were purchased separately by the district.

² The OIG would like to note that as of July 27, 2010 (approximately 10 months after the district's purchase), the legislature amended M.G.L. c.149 to require the use of sound business practices for projects estimated to cost less than \$10,000 and require the solicitation of written quotes for purchases between \$10,000 and \$24,999.

\$6,730, M.G.L. c.149 required the District to aggregate the cost of the electrical work for all eight chillers and to obtain three quotes for the service.

The District also failed to comply with Chapter 30B for the purchase of two steamers. The District chose to use a quote process to purchase the steamers. The District obtained three quotes for each steamer of \$16,590, \$15,886, and \$15,800. The District chose the vendor offering the lowest price per item of \$15,800 and purchased the steamers individually. Since the total cost of \$31,600 for the two steamers exceeded the maximum amount for seeking quotes under Chapter 30B, the District should have purchased the items using an SWC or a formal IFB or RFP process. The OIG also reviewed the District's procurement of electrical and plumbing work for the installation of the steamers (as well as all other equipment purchased under the grant) and found that the District did not violate M.G.L. c.149 because the cost of the work did not exceed the dollar threshold for soliciting quotes.

The OIG strongly urges the District to avoid what appears to be bid splitting in the examples cited above. The OIG's Procurement Manual defines bid splitting as, "knowingly causing or conspiring to cause the division of any procurement for the purpose of evading the requirements of the law." The OIG will bring the District's procurement violations to DESE's attention for further review and will recommend that DESE advise other districts to follow procurement rules more carefully.

For the items that did not exceed the Chapter 30B quote thresholds (chart items nos. 3, 4, 6, 8, 9, 12-16, 20, 21) the OIG verified that:

- the purchases complied with the requirements of Chapter 30B;
- the District sought at least three quotes from legitimate business entities;
- the District chose the vendor with the best price offer; in some cases an SWC contract vendor;
- the District spent all of the grant funds on the intended equipment and its installation.

Although the District purchased the intended equipment for each school as specified in the grant award, the OIG found that in all cases, when the District added installation costs to an item, the total cost no longer matched the amount DESE approved for each item. Further, the OIG found the District shifted a total of \$10,754 in funds (approximately 5% of the grant) across purchases to make up for any cost differences between the amount approved by DESE for each item and the actual cost of the item. The OIG consulted with DESE to determine the appropriateness of these transfers under the terms of the grant. According to DESE, recipients may only spend the awarded amount per item unless they request and receive DESE approval. The District did not seek DESE's approval. Since this may be a violation of DESE guidelines, the OIG will bring this matter to DESE's attention and request that DESE make a determination regarding the appropriateness of the District's action.

DESE has also stressed the importance of its requirement that all districts accurately report how they spent the Russell funds, and the OIG strongly urges the

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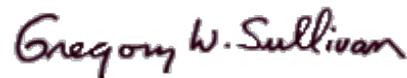
District to do so. Additionally, as installation costs appear to have altered the purchase price for some equipment, the OIG will also recommend that DESE require grant applicants to note whether installation costs are included in the grant request and, if not, include installation costs as a separate line item in the grant application.

Finally, the grant award stated that, "all monies must be expended by September 30, 2009..." and that there would be, "...no extensions allowed." DESE also cited in its award letter to the district the U.S. Department of Agriculture (USDA) policy memorandum SP 18-2009 in which the USDA, "recommend[s] that State agencies encourage SFAs [school food authorities] to complete their procurement and expenditure activities within three (3) months of grant award." However, according to the documents the District provided to the OIG, it did not expend all funds until after September 30, 2009. The OIG is requesting that DESE review this timeline to ensure that no ARRA violation has been committed.

Additional information for future procurements can be found on the OIG website, including step-by-step procurement information available in the OIG manuals, *Municipal, County, District, and Local Authority Procurement of Supplies, Services, and Real Property* (a revised version called "*The Chapter 30B Manual*" soon to be released), and, *Designing and Constructing Public Facilities* (the construction manual) at <http://www.mass.gov/ig/igpubl.htm>. Also, a free introductory online "Bidding Basics" training course can be found on the OIG website at http://www.mass.gov/ig/mcppo/bb_online.htm. This serves as a helpful refresher or introductory course on M.G.L. c. 30B, the Uniform Procurement Act.

I appreciate your cooperation in this review of ARRA funding. Please do not hesitate to contact my office with any questions or concerns you may have regarding this review.

Sincerely,



Gregory W. Sullivan
Inspector General

cc: Mary Anne Gilbert, Department of Elementary and Secondary Education
Kathleen C. Millett, Department of Elementary and Secondary Education
Dr. Carol Johnson, Boston Public Schools