

## 965 CMR: DEPARTMENT OF THE STATE AUDITOR

### 965 CMR 4.00: CALCULATION OF PRIVATIZATION THRESHOLD

#### Section

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#### 4.01: General Provisions

- (1) Authority. 965 CMR 4.00 is promulgated pursuant to M.G.L. c. 7, § 55(c).
- (2) Applicability. 965 CMR 4.00 is applicable to the Department of the State Auditor and to any Agency as defined by M.G.L. c. 7, § 53.
- (3) Scope. 965 CMR 4.00 shall govern the calculation of the annual change, if any, in the amount of the threshold at which a privatization contract becomes subject to M.G.L. c. 7, §§ 52 through 55.

#### 4.02: Definitions

As used in 965 CMR 4.00, unless the context otherwise requires, the terms set forth in 965 CMR 4.02 are defined as follows:

Consumer Price Index (CPI) shall mean the United States Department of Labor's Bureau of Labor Statistics Index, All Urban Consumers, U.S. City Average, for all items (1982-84=100).

CPI for Most Current Year (CPI-CY) shall mean the average CPI from the most recent December through November period.

CPI for Previous Year (CPI-PY) shall mean the average CPI from the second most recent December through November period.

CPI Change shall mean the difference between the CPI-CY and the CPI-PY.

Current Privatization Threshold Amount shall mean the prior year's Privatization Threshold Amount plus the Privatization Threshold Change.

Department shall mean the Department of the State Auditor.

Original Threshold Amount shall mean \$500,000.

Percent Change in CPI shall mean the percent increase or decrease in the average CPI from the previous year calculated by dividing the CPI Change by the CPI-PY.

Privatization Contract shall mean an agreement or combination or series of agreements by which a non-governmental person or entity agrees with an agency to provide services, valued at the Current Threshold Amount, which are substantially similar to and in *lieu* of, services theretofore provided, in whole or in part, by regular employees of an agency. Any subsequent agreement, including any agreement resulting from a rebidding of previously privatized service, or any agreement renewing or extending a privatization contract, shall not be considered a privatization contract. A contract for information technology services shall not be considered a privatization contract if an employee organization recognized under M.G.L. c. 150E as the exclusive representative of an affected employee, as determined by the Secretary of Administration and Finance, agrees to the terms of the contract in writing. An agreement solely to provide legal, management consulting, planning, engineering, or design services shall not be considered a privatization contract.

4.02: continued

Privatization Threshold Amount shall mean the dollar amount at which point a contract may be subject to M.G.L. c. 7, §§ 52 through 55.

Privatization Threshold Change shall mean the prior year's Privatization Threshold Amount multiplied by the Percent Change in the CPI.

4.03: Calculation of Annual Change in the Privatization Threshold Amount

(1) Pursuant to M.G.L. c. 7, § 53, as of January 1<sup>st</sup> each year, Privatization Threshold Amount shall increase from the Original Threshold Amount and any changes in prior year Privatization Threshold Amounts to reflect increases in the consumer price index calculated by the United States Bureau of Labor Statistics for all urban consumers nationally during the most recent 12 month period for which data is available.

(2) As of January 1<sup>st</sup> of each year, the most recent 12 month period for which data is available is the previous December through November period. For example, on January 1, 2012, the most recent 12 month period for which United States Bureau of Labor Statistics data was available was the period from December 1, 2010 to November 30, 2011.

(3) In January of each year, the Department shall calculate the CPI for the Most Current Year by adding up the monthly change in the CPI from the most recent December through November period and dividing by 12. For example, in the period from December 1, 2010 to November 30, 2011, the average CPI was 224.385.

(4) Following the calculation of the CPI for the Current Year, the Department shall subtract the CPI for the Previous Year from the CPI for the Current Year to determine the CPI Change. For example, the CPI for Previous Year in the example in 965 CMR 4.03(3), for the period from December 1, 2009 to November 30, 2010, was 217.828. In this example, the CPI Change for the Privatization Threshold Amount to take effect as of January 1, 2012 was 6.56.

(5) In order to determine the Percent Change in CPI, the Department shall divide the CPI Change by the CPI for Previous Year, and multiply the result by 100. For example, in the example 965 CMR 4.03(4), dividing the CPI Change – 6.56 – by the CPI-PY – 217.828 – yields the number 0.0301, which, multiplied by 100, yields a Percent Change in CPI of 3.01%.

(6) To determine the Privatization Threshold Change, the Department shall multiply the prior year's Privatization Threshold Amount by the Percent Change in CPI. In the example 965 CMR 4.03(5), for instance, because the prior year's Privatization Threshold Amount was \$508,775 and the Percent Change in CPI was 3.01%, the Privatization Threshold Change was \$15,316.

(7) To determine the Current Privatization Threshold Amount, the Department shall add the Privatization Threshold Change to the prior year's Privatization Threshold Amount. In the instance in 965 CMR 4.03(6), adding the Privatization Threshold Change -- \$15,316 -- to the prior year's Privatization Threshold Amount -- \$508,775 -- yielded a Current Privatization Threshold Amount, as of January 1, 2012, of \$524,091.

(8) In the event that the CPI declines, the new Privatization Threshold Amount shall decline as well, but in no event shall the new Privatization Threshold decline below the statutorily set threshold of \$500,000.

4.04: Table of Calculations

Following the statutory increase in the Original Threshold Amount that took effect on July 1, 2009, and using the procedures in 965 CMR 4.03, the Department employed the following calculations in arriving at new Privatization Threshold Amounts:

Year	Avg. CPI Dec-Nov	Percent Change	Percent Change in Dollars	New Privatization Threshold (effective January 1 <sup>st</sup> the following year)
2009	214.071	The calculation was not used in 2009 because doing so would have resulted in a threshold below the statutory threshold of \$500,000.		
2010	217.828	1.76%	\$8,775	\$508,775
2011	224.385	3.01%	\$15,316	\$524,091
2012	229.267	2.18%	\$11,403	\$535,494

4.05: Access to Current Privatization Threshold Amount

Upon completion of a new Current Privatization Threshold Amount, the Department shall publicize the new Amount on the State Auditor’s website -- <http://www.mass.gov/auditor/>. Anyone may request information on the Current Privatization Threshold Amount by contacting the Department at the following address and/or phone number:

Legal Department  
Office of the State Auditor  
One Ashburton Place, Room 1819  
Boston, MA 02108  
(617) 727-6200

REGULATORY AUTHORITY

965 CMR 4.00: M.G.L. c. 7, § 55(c).

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