

# Procurement Bulletin

*A publication of the Massachusetts Office of the Inspector General*

## Congratulations to New MCPPOs!

Inspector General Robert A. Cerasoli extends his congratulations to the most recent recipients of MCPPO designations based on applications reviewed between May 1, 2000 and November 1, 2000.

### MCPPOs

**Michael F. Ahern**, Town of Mansfield  
**Ilidio M. Azinheira**, Town of Mansfield  
**Brian G. Barry**, Department of Revenue  
**Brian E. Bigelow**, Worcester Housing Authority  
**Joanne D. Caliri**, MAPC  
**Eileen A. Cawley**, Massachusetts Turnpike Authority  
**Mark J. Cook**, Town of Mansfield  
**Marie V. Cosgrove**, Town of Concord  
**Marjarita Doherty**, Town of Walpole  
**Donald D. Dunn**, Chicopee Housing Authority  
**Alphonse Esposito, Jr.**, Oxford Public Schools  
**Gail E. Farrell-Durgin**, County of Norfolk  
**Edward J. Glora**, Boston Public Schools  
**Joan Lanzillo-Hahesy**, City of Chelsea DPW  
**Michael J. Hartman**, Town of Medway  
**Judith A. Killinger**, Rockland Public Schools  
**Joan M. Leighton**, Town of Sharon  
**Marilyn A. Mathieu**, Town of Bellingham  
**Michael C. Morris**, City of Brockton  
**Ernest A. Muserallo**, Ashburnham-Westminster RSD  
**Wendy V. Nightingale**, Town of Easton  
**Lawrence W. Oliveira**, City of New Bedford  
**Constance A. Ross**, Town of Marblehead  
**Michael J. Tarlow**, Weymouth Public Schools  
**Lisa L. Thompson**, Springfield Housing Authority  
**Amelia C. Tierney**, Town of Chilmark  
**Rita E. Vaga**, Quincy Housing Authority

**Joan White**, Somerville Public Schools  
**Marie V. Znamierowski**, North Shore RSVD

### Associate MCPPOs

**Joan E. Harvey**, Dennis-Yarmouth RSD  
**Dimitrios M. Martinos**, MBTA  
**Andrea J. Spears**, City of Cambridge

### MCPPO for Supplies and Services Contracting

**Paula A. Gendreau**, Westport Community Schools  
**Karen M. Murphy**, Town of Winchendon  
**Angelo A. Napolitano**, Malden Redevelopment Authority  
**Vinton D. Wong**, MBTA

### Associate MCPPO for

### Supplies and Services Contracting

**Timothy N. Daniels**, Town of Dalton

### MCPPO for Design and Construction Contracting

**Steven DeDominici**, MBTA  
**Robert E. O'Brien**, Town of Walpole

### MCSPPO for Design and Construction Contracting

**Robert E. Barry**, DCAM  
**Paul Chroniak**, DCAM  
**Mary Beth Clancy**, DCAM  
**Ronald A. Ferrara**, DCAM  
**Michael J. Lambert**, DCAM  
**Donald R. Mailloux**, DCAM

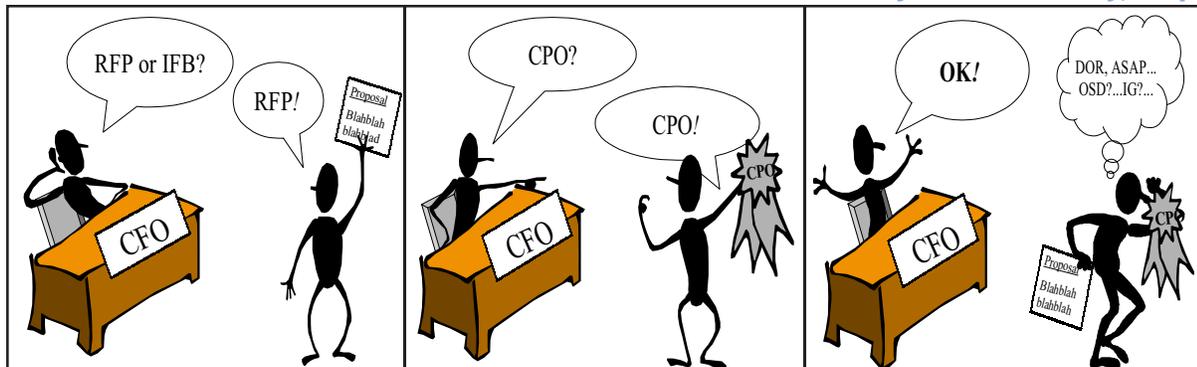
### Associate MCPPO for

### Design and Construction Contracting

**Roger A. Hammond**, Town of Grafton

## 30Beans

*by Helen Flaherty, Esq.*



## Late and Overlooked Bids: New IG Policy Announced

Over the years, our Office has received numerous calls regarding bids that were either delivered late or overlooked for some reason and not opened in a timely manner. Given the frequency of these occurrences, we decided to develop a policy regarding late and overlooked bids, keeping in mind the dual purposes of the bid laws: fair and open competition, and best price. We also tried to take a practical and common sense approach.

Our Office recommends handling late and overlooked bids in the following manner. (This policy is thoroughly discussed in the IG's newest seminar, *Bidding for Better Results*.)

**Late Bids:** These are bids that are delivered late – after the bid due date and time.

If a bid is delivered late due to:

- bidder error (e.g., bidder incorrectly addresses bid, delivers the bid to the wrong office, or walks in late to the bid opening), or
- error on the part of a third party charged with delivery of the bid (e.g., mail, courier service),

the bid must be rejected. You should return the bid, unopened, to the bidder.

**Overlooked Bids:** These are bids that are properly directed and delivered on time but not opened in a timely manner due to the awarding authority's error. For example, the bid was properly delivered the day before the bid due date, but the procurement officer fails to bring it to the bid opening. In the case of overlooked bids, the awarding authority's two main considerations should be as follows: 1) was the overlooked bid the best-priced bid? and 2) was the overlooked bid in a secure location from the time the bid was due until its discovery?

In light of these considerations, this Office recommends that the awarding authority take the following steps to handle an overlooked bid:

- Notify all bidders of the error. Open the overlooked bid at a public meeting or in the presence of one or more witnesses. It is advisable to inform the other bidders of the opening and permit them to be present.
- Determine whether the overlooked bid was in a secure location.
- If the bid *has* been in a secure location – e.g., in a locked drawer in the Purchasing Office – the awarding authority may award the contract to the overlooked bidder if it is the best-priced bid. (If it is not the best-priced bid, the contract is awarded to another bidder, and the overlooked bid should be kept in the procurement file.)
- If the bid *has not* been in a secure location – e.g., it has been sitting for several hours on a public service counter – and it is the best-priced bid, our Office recommends that you rebid the contract in the interest of fairness. (If it is not the best-priced bid, the contract is awarded to another bidder, and the overlooked bid should be kept in the procurement file.)

In either of these instances – whether the bid has been in a secure or non-secure location – a bidder may request that you return its bid unopened. This is likely to happen if the bidder knows that it will not ultimately win the contract, and it would like to keep its price from being exposed. However, in the interest of fairness, we do not recommend returning an overlooked, unopened bid. If the bidder has the potential to win the contract, it should also have the potential to lose the contract. If you return the overlooked bid and you ultimately rebid the contract, this bidder would have an unfair advantage in that it would be the only bidder with an unexposed price.

We hope that this new policy provides a practical solution to the problem of late and overlooked bids. As always, if you have any questions, please feel free to call one of the Chapter 30B team attorneys.

## New Chief Procurement Officer (CPO) Delegation Forms Must be Filed!

As many of you know, awarding authorities may appoint a chief procurement officer (CPO) to procure all of its supplies and services. A CPO may also delegate the responsibility for various procurement functions to others. The delegation goes to the position (e.g., library director, school business manager) and not to the individual employee. In order for that delegation to take effect, a CPO delegation form must be filed with the Office of the Inspector General.

Due to the recent changes in the M.G.L. c. 30B bid thresholds, new delegation forms must be filed. A copy of the new form is enclosed with this newsletter and may be reproduced. Please complete and return any delegation forms to: Office of the Inspector General, P.O. Box 270, State House Station, Boston, MA 02133, ATTN: CPO Delegation.

### Instructions Chief Procurement Officer's Delegation of Procurement Powers and Duties Form

**M.G.L. c. 30B, Section 19, of the General Laws authorizes the Chief Procurement Officer (CPO) of a governmental body to delegate procurement powers and duties to other employees of the governmental body. The CPO has great discretion in making a delegation – a delegation can be very specific and limited, or very broad.**

**Keep in mind that you may only delegate powers you legally have under Chapter 30B and other applicable statutes, rules, regulations, charters, ordinances, or by-laws. For example, where statutes or other rules require that a contract be approved by the mayor, city council, board of selectmen, or school committee, such final approval is not the CPO's to delegate.**

**You must complete and sign one delegation form for each delegation of powers and duties, and for each subsequent amendment or revocation of an original delegation. Step-by-step instructions are listed below.**

1. Check the appropriate box.
2. List the official title and department of the employee position receiving this delegation as well as the full name of the employee currently in this position.
3. Check as many boxes as apply. If you wish to delegate powers and duties in addition to, or other than, those listed on the form, check "Other" and specify the powers and duties you are delegating in an attachment.
4. Check as many boxes as apply. If necessary, list additional departments or contracts in an attachment. If you wish to restrict the delegation in some way other than those listed on the form, check "Other" and specify the requirements in an attachment.
5. Check as many boxes as apply. If you wish to impose requirements not listed on the form, check "Other" and specify the requirements in an attachment.
6. Enter the expiration date, if any. If there is no scheduled expiration date, enter "Not Applicable."
7. Enter the name of your governmental body. Sign and date the delegation form. List your name, official title, department, office address, and office telephone number.
8. Send the original of this form to the Office of the Inspector General at the address provided on the bottom of the form.

No delegation or subsequent amendment or revocation of an original delegation shall take effect until the original of this form has been received by the Office of the Inspector General. A copy will be retained in the Office's file.

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**Chief Procurement Officer's Delegation  
of Procurement Powers and Duties**

(Type or print legibly)

1.  Original Delegation    Amendment    Revocation
  2. Pursuant to the provisions of M.G.L. c. 30B, §19, I hereby delegate the powers and duties set forth below to:  
Title \_\_\_\_\_  
Department \_\_\_\_\_  
Name \_\_\_\_\_
  3. I hereby delegate the following M.G.L. c. 30B powers and duties to the procurements specified herein:  
 Solicit       Open       Evaluate       Award       Reject/Cancel  
 Exercise options       Increase quantities       Maintain Records  
 All of the above       Other (specify in an attachment)
  4. This delegation pertains to procurements:  
 for the following department(s): \_\_\_\_\_  
 for the following contract(s): \_\_\_\_\_  
 other (specify in an attachment)  
involving:  
Supplies      Services  
       under M.G.L. c. 30B, §4(c) (sound business practices)  
       under M.G.L. c. 30B, §4(a) (price quotations)  
       under M.G.L. c. 30B, §5 using bids or M.G.L. c. 30B, §6 using proposals  
       Other (specify in attachment)
  5. This delegation is conditioned upon compliance with M.G.L. c. 30B, all applicable statutes, rules, regulations, charters, ordinances, or by-laws, and subject to the following additional requirements:  
 Final approval of award by Chief Procurement Officer  
 Approval of all documents by Chief Procurement Officer prior to issuance  
 Certification as a Massachusetts Certified Public Purchasing Official (MCPPO)  
 Certification as an MCPPO for Supplies and Services  
 Certification as an MCPPO for Design and Construction  
 Other certification (specify in attachment)  
 Completion of the following MCPPO course(s):  
     *Public Contracting Overview*       *Bidding Basics and Contract Administration*  
     *Supplies and Services Contracting*       *Bidding for Better Results*  
     *Design and Construction Contracting*       Other \_\_\_\_\_  
 Other (specify in an attachment)
  6. This delegation shall remain in effect until revoked or amended. Otherwise, this delegation shall expire on \_\_\_\_\_
  7. I certify that I am the Chief Procurement Officer of \_\_\_\_\_  
Signed \_\_\_\_\_ Date \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Department \_\_\_\_\_  
Office Address \_\_\_\_\_ Zip \_\_\_\_\_  
Office Telephone \_\_\_\_\_  
MCPPO Certification:  Yes  No
  8. Send the original of this form to Office of the Inspector General, P.O. Box 270, State House Station, Boston, MA 02133, ATTN: CPO Delegation. No delegation, amendment, or revocation shall take effect until it is received by the Office of the Inspector General.
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**Massachusetts Certified Public Purchasing Official Program**  
**Massachusetts Office of the Inspector General**  
 State House Station  
 P.O. Box 270  
 Boston, MA 02133  
 617-523-1205 617-727-9140

### Seminars Offered for 2001

For a complete MCPPO catalog, call Program Director Anne Tierney at 617-523-1205

#### Core Seminars

The following seminars may be applied toward earning an MCPPO designation

**Public Contracting Overview** **3-day seminar**  
**Tuition \$250**

An overview of legal requirements and best practices for public contracting by local governmental bodies, with hands-on workshops that apply contracting knowledge and skills to practical problems faced by the procurement official. A prerequisite for *Supplies and Services Contracting* and *Design and Construction Contracting*, this three-day seminar is invaluable both for experienced public officials and those who have recently entered the field or are working in a support capacity. This seminar concludes with a written examination. You may earn 20 CPE, PDP and LU hours and 2 CEU credits.

**March 20-22, 2001** **8:30-4:30** **Boston**  
**March 27-29, 2001** **8:30-4:30** **Western MA**

**Design and Construction Contracting** **3-day seminar**  
**Prerequisite:** **Tuition \$350**  
**Public Contracting Overview or**  
**State Contracting Overview**

This in-depth, three-day seminar is tailored to professionals facing the complex issues of today's design, public building construction, and public works construction projects. Participants will learn practical applications and effective strategies to guide them through procurement and administration of design and construction contracts. This seminar concludes with a written examination. You may earn 20 CPE, PDP and LU hours and 2 CEU credits.

**February 27-March 1, 2001 8:30 - 4:30 Boston**

**Supplies and Services Contracting** **3-day seminar**  
**Prerequisite:** **Tuition \$250**  
**Public Contracting Overview**

Comprehensive and challenging, this 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 will learn about writing effective specifications, obtaining best value using an invitation for bids, making the request for proposals process work, common bidding problems and how to resolve them, effective contract administration, and more. This seminar concludes with a written examination. You may earn 20 CPE, PDP and LU hours and 2 CEU credits.

**January 10-12, 2001 8:30 - 4:30 Boston**

**State Contracting Overview** **4-day seminar**  
**FOR STATE EMPLOYEES** **Tuition \$375**

An overview of legal requirements and best practices for public contracting by state agencies, with hands-on workshops that apply contracting knowledge and skills to practical problems faced by state contracting officials. A prerequisite for *Design and Construction Contracting*, this four-day seminar concludes with a written examination. You may earn 26 CPE, PDP and LU hours and 2.6 CEU credits.

**February 7,8,13,14, 2001 8:30-4:30 Boston**

#### **Policy of Non-Discrimination**

The Office of the Inspector General does not discriminate on the basis of race, color, national origin, ancestry, religion, sex, age, disability, sexual orientation, political affiliation, or Vietnam-era or disabled-veteran status in its employment, admission policies, or in the administration or operation of, or access to its programs and policies. The Office of the Inspector General does not discriminate on the basis of disability in violation of Section 504 of the Rehabilitation Act of 1973. Inquiries pertaining to the Office's non-discrimination policy for MCPPO programs may be addressed to Anne Tierney.



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**Seminars Offered for 2001**

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**Bidding for Better Results** Tuition \$90

Participants in this six-hour seminar will practice writing and critiquing specifications to maximize best value for supplies and services. Participants will also learn the best way to handle late bids and how to avoid the appearance of bid splitting. This advanced seminar is filled with hands-on exercises. There is no written examination. This seminar qualifies for 6 continuing education credits that may be applied to MCPPO and MCSPO recertification.

**January 25, 2001 8:00 - 3:30 Boston**  
**March 7, 2001 8:00 - 3:30 Boston**

**Bidding Basics and Contract Administration** Tuition \$40

This brief four-hour course is packed with the basics you need to begin understanding public purchasing for local governmental bodies in Massachusetts. You may earn .4 CEUs and 4 CPEs for completion of this course. This course does not contain an examination and may not be applied toward MCPPO recertification. You will receive a certificate of completion. This seminar can be offered at a location in your jurisdiction with a minimum of 35 attendees. Call Anne Tierney at 617-523-1205 to schedule a seminar in your area.

**Local Government Real Property Transactions Under M.G.L. c. 30B** Tuition \$75

This five-hour seminar covers the M.G.L. c. 30B request for proposals process for the acquisition and disposition of land and buildings by local governmental bodies. This seminar qualifies for 5 continuing education credits that may be applied to MCPPO recertification.

**January 23, 2001 8:30- 3:00 Boston**

**Drafting a Model IFB** Tuition \$60

This course consists of drafting a model IFB for the supply or service of your choice. You will be provided with a template IFB on disk and you will be assigned to an attorney from the Office's Chapter 30B Team. The objective of this course is to draft a well-written IFB that may be posted on the IG website and used by other jurisdictions. The computer disk included with this course contains a model IFB in Microsoft Word 7.0. You must have Microsoft Word 7.0 or higher to use the model IFB template. For technical questions about this course, contact Elizabeth Hayward at 617-727-9140. The registration form for this course must be accompanied by a check. This course qualifies for 4 continuing education credits that may be applied to MCPPO recertification.



The Massachusetts Office of the Inspector General has been reviewed and approved as an Authorized Provider of continuing education and training programs by the International Association for Continuing Education and Training. Authorized Provider #101811.



Registered with the National Association of State Boards of Accountancy as a sponsor of continuing professional education on the National Registry of CPE sponsors. State Boards of Accountancy have final authority on the acceptance of individual courses. Complaints regarding sponsors may be addressed to NASBA, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417, (615) 880-4200. Membership #103866.



The Massachusetts Office of the Inspector General is part of the American Council on Education's College Credit Recommendation program.



The Massachusetts Office of the Inspector General is a registered provider with the American Institute of Architects Continuing Education System. Please notify us of your AIA membership number upon registration so that we can notify AIA of your participation.



The Massachusetts Office of the Inspector General is registered with the Department of Education to award professional development points (PDP).



**Massachusetts Certified Public Purchasing Official Program  
Registration 2001**

**Registration:**

Registration and payment must be received 10 days prior to the course date in order to process a confirmation. Registration for off-site courses and payment must be received 30 days prior to the seminar date in order for this Office to confirm the seminar. Off-site seminars will be confirmed based on a minimum of 50 registrants. In the event of the cancellation of an off-site location, an alternative date will be offered. Confirmation letters and directions will be mailed 10 days prior to the seminar. Terms and conditions are subject to change without notice.

**Reserve Seating:**

To reserve seating, fax this registration form together with a purchase order to 617-723-2334. Mail originals to: Office of the Inspector General, P.O. Box 270, State House Station, Boston, MA 02133, Attn: MCPPO. Make checks payable to the Office of the Inspector General.

**Substitutions/Cancellations:**

Each seminar is limited and filled on a space-available basis. No refunds or cancellations. Registration transfer to someone in your organization is possible with prior notice. This Office reserves the right to cancel/reschedule any seminar and is not responsible for any costs incurred by registrants. Alternative course dates may be substituted in the event of an emergency, upon notification. Changes in seminar date and/or cancellations must be received by fax at least two business days prior to the seminar date and are subject to a \$25 transfer fee. No-shows will be invoiced a \$50 service charge.

**Policy of Non-Discrimination:**

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**Method of Payment:**  check/money order  purchase order no. \_\_\_\_\_  IE/IV

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Organization/Jurisdiction: \_\_\_\_\_ Fax: \_\_\_\_\_

Title: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

How long have you been employed as a purchasing official? \_\_\_\_\_

If you are a member of the American Institute of Architects, please provide your member no. \_\_\_\_\_

Course title (1st choice): \_\_\_\_\_

Course date and location: \_\_\_\_\_

Course title (2nd choice): \_\_\_\_\_

Course date and location: \_\_\_\_\_

**FOR MORE INFORMATION:** Contact Anne Tierney, Program Director at 617-523-1205

## Privatizing Water Systems

Two IG staff members wrote an article recently published in *Public Works Management & Policy*, the journal for the American Public Works Association. The article, entitled *Privatizing Municipal Water and Wastewater Systems: Promises and Pitfalls*, examines claims of cost savings achieved in some communities through complex, long-term privatization contracts. The article also offers advice to public officials on how to protect the public interest in a privatization agreement. To request a copy of this article, please fax your request with your name, address, and phone number to 617-723-2334.

## M.G.L. c. 30B Questions and Answers

*Q: I am buying new playground equipment for one of our town parks. The contractor will supply and install the equipment. I expect the total contract to cost \$40,000. Does M.G.L. c. 30B apply to this contract?*

**A:** No. This is a public works contract subject to M.G.L. c. 30, §39M. You may not use M.G.L. c. 30B to procure construction contracts estimated to cost more than \$25,000.

*Q: What if this same playground contract were estimated to cost \$20,000?*

**A:** A \$20,000 construction contract may be bid under either M.G.L. c. 30, §39M or M.G.L. c. 30B, §5 (bids). If you elect to procure the contract under M.G.L. c. 30B, §5, remember that you must use sealed bids. You may not solicit price quotations

or sealed proposals for a \$20,000 construction contract.

*Q: Must I obtain a payment bond for either of the above construction contracts, which include both labor and materials?*

**A:** Yes. You must obtain at least a 50 percent payment bond for any construction contract costing more than \$2,000 (\$5,000 for state contracts).

*Q: What if I am spending the \$20,000 on equipment only, and I intend to use town employees to provide the labor?*

**A:** The equipment contract may be procured under either M.G.L. c. 30, §39M or M.G.L. c. 30B, §4 (quotations). Since you are purchasing equipment only, you can use the M.G.L. c. 30B quotation process as long as the contract does not exceed \$25,000.

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

**[www.state.ma.us/ig](http://www.state.ma.us/ig)**