



The Commonwealth of Massachusetts  
Office of the Inspector General

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June 10, 2009

Dr. Arthur Stellar, Superintendent  
Taunton Public Schools  
110 County Street  
Taunton, MA 02780

Dear Dr. Stellar,

As you are aware, this Office recently issued an *Advisory for the Procurement of Energy Management/Conservation Services*. In that advisory, we advised that such services are subject to the Massachusetts laws governing public procurement and can be procured using either M.G.L. c.30B or M.G.L. c.25A. It is this Office's understanding that legal counsel for Taunton Public Schools (Taunton) has provided an opinion which states that M.G.L. c.25A, §11I had not been enacted at the time that Taunton entered into a contract with Energy Education Inc., a company providing energy management services, and that it was presumed that Taunton had either done a "sole source" contract or that the contract was the result of a request for proposals.

For purposes of M.G.L. c.30B, a sole source procurement can only be used for contracts with a value of less than \$25,000 with limited exceptions: educational materials, library books, software maintenance and regulated utilities.<sup>1</sup> A contract with EEI would not properly constitute a sole source procurement because it does not fit into one of the enumerated exceptions and the contract exceeds \$25,000. Taunton was required to conduct either an invitation for bid or a request for proposals to procure these services. Any contract entered into in violation of M.G.L. c.30B is invalid and no payment can be made.<sup>2</sup>

With this in mind, this Office recommends that Taunton determine whether or not the services of EEI were properly procured in accordance with M.G.L. c.30B, that is, whether the services were procured through an advertised invitation for bid or request for proposal. If they were not, this Office recommends that you discuss with legal counsel any options to continue payment.

Sincerely,

A handwritten signature in dark ink that reads "Gregory W. Sullivan".

Gregory W. Sullivan  
Inspector General

cc: School Committee

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<sup>1</sup> See M.G.L. c.30B, §7.

<sup>2</sup> See M.G.L. c.30B, §17.