



PROCUREMENT BULLETIN

A Publication of the Office of the Inspector General

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Vol. 1, No. 2

IG GREETINGS

I am pleased to present the second issue of my Office's Procurement Bulletin, which features a lengthy discussion of questions regarding the applicability of M.G.L. c.30B to school services.

Preparation of an updated procurement manual by this Office is well under way. Copies of the manual will be issued to all public officials who have completed and sent in the order form contained in the first issue of this bulletin. In conjunction with the release of the new manual, my Office will be offering Chapter 30B training seminars in various locations across the state. Public officials may register for these seminars by sending in the registration form contained at the back of this issue.

Judging by the overwhelmingly positive response to the first issue of this bulletin, I trust that this newsletter is proving helpful to public officials and others who implement Chapter 30B. I welcome your suggestions on how I and my staff can better serve the needs of the procurement community.

Sincerely,

Robert A. Cerasoli,
Inspector General

BOSTON AND THE MBTA SAVE MONEY BY BIDDING LEGAL SERVICES

In July 1994, the City of Boston employed an advertised bidding process to purchase its bond counsel services for the next three years. By selecting the qualified law firm offering the lowest fees, the City saved an estimated one million dollars.

In addition, the December 12, 1994 issue of *Massachusetts Lawyers Weekly* reported that the Massachusetts Bay Transportation Authority also bid its bond counsel contract this year, for the first time ever. The bidding resulted in the MBTA's selection of a new firm, at a savings of \$100,000 over its current contract.

Although contracts for legal services are exempt from Chapter 30B, awarding authorities may bid these or any other exempt services. Competition will generally result in lower fees, particularly where a contract for services has been repeatedly awarded to the same firm over a long period of time.

Following Chapter 30B's requirement of setting stringent minimum criteria will help ensure that only highly experienced bidders will be eligible to win a contract. Once the field of bidders has been narrowed to these qualified candidates, an awarding authority may then evaluate the bidders based on price.

New Phone Hours for Chapter 30B Questions

The Inspector General's Office has determined that there is a need to focus our resources in a more efficient manner. This Office wants to be able to answer your questions as quickly as possible. The most effective way to achieve this goal is to have scheduled phone-in times. Therefore, beginning April 1, 1995, the Inspector General's Office will accept questions and requests for technical assistance over the telephone three days per week. You may telephone the Inspector General's Office with a question or request on Mondays, Wednesdays and Fridays from 8:00 am to 4:00 pm. You may also submit questions or requests by mailing them to:

Office of the
Inspector General
One Ashburton Place
Room 1311
Boston, MA 02108
Attn: Chapter 30B Team
or
Fax to (617) 723-3540.

We also welcome any concerns or suggestions you may have on how we can assist you.

Inside

Special Q & A for Schools
Information About Medicaid and Third Party Billing
Register Now for Chapter 30B Training!

QUESTIONS ABOUT

CHAPTER 30B

If a major softdrink company offers to provide our school system with an electronic scoreboard in conjunction with a concession stand contract, will this transaction be subject to Chapter 30B?

Yes. You may estimate the contract value by determining the approximate volume of softdrink sales and the value of the advertising space. It is likely that the value of the contract will be less than \$10,000, in which case Chapter 30B requires solicitation of three telephone or written quotations. You may award the contract to the softdrink vendor that offers to provide the school with an electronic scoreboard and will pay the highest price or commission to the school for drinks sold through its concession stands.

How does Chapter 30B apply to purchases of food when the public school food service program is managed by a private food service management company?

There are three possible methods of contracting to buy food:

1. Advertise for a contract for a food service management

company which includes the cost of the food as well as the food preparation.

2. Advertise for a contract which includes only the preparation services. School officials may buy the food, using Chapter 30B and provide the food to the food service company.

3. Advertise for a contract which requires the food service management company to purchase the food on behalf of the schools and then prepare it. The cost of the contract includes the services, but does not include the cost of the food. When the food service company purchases food, the cost is reimbursed by the school department. This is the most complicated arrangement for school officials, since they have to ensure that food purchases made by the vendor are done through a competitive process.

A private food service management company may solicit quotes, prepare bid specifications and advertise for competition on behalf of the school district in accordance with Chapter 30B. It may also provide the school district with recommendations for contract awards.

Where a contract between a school district and a private food service management company includes food purchases in the scope of services under contract, Chapter 30B would not apply to the private company's food purchases. However, when procuring the food service management company, the school district must specify that the management company will supply the food and must provide vendors with information to determine the quantity and quality of the food needed.

Recently, my community went out to bid for a school bus transportation contract. The lowest qualified bidder failed to sign the bid price form. However, the non-collusion form was signed. Must I reject this bid?

No. A signature on the bid is necessary to validate its authenticity. However, where other indicia of authenticity are denoted, such as initialled pages or a signed non-collusion form, it is clear that the submission was intended for evaluation and would be contractually binding. In this case, the fact that the bid price form was not signed can be waived as a minor

(Continued on the next page)

MORE QUESTIONS

ABOUT CHAPTER 30B

informality. The bidder may sign the bid price form as soon as possible.

Massachusetts courts have held that a signature is valid if it is made with initials only, or if a document is signed by the person to be charged, in their own name, or by their initials, or by the person's first name alone, or by a printed, stamped or typewritten signature, if in signing in any of these methods the person intended to authenticate paper as their act.

Alternatively, a signature consisting of a company's typewritten name is sufficient where evidence showed that these words were intended as signature of the company. (See, *Irving v. Goodimate Co.*, 320 Mass. 454 (1946) and *Sanborn v. Flagler*, 91 Mass. 474 (1864)).

When our elevator maintenance contract expired we invited bids for a new service contract using Chapter 30B procedures. The same company that was last under contract with us was the low bidder. However, we had problems with this company because they did not fulfill their obligations under the

contract, including a failure to perform an annual inspection. May we reject this company as nonresponsible and award the contract to the second low bidder?

Yes. You may reject this company as being nonresponsible based on poor performance under the prior contract. You should compile documentation showing that the company did not adequately perform the services specified under contract. Chapter 30B is designed for you to get the best price for supplies and services at the needed quality. You should not hire contractors that have a poor performance record.

Please note that an elevator service contract that cost \$25,000 or more will fall under Chapter 149 of the Massachusetts General Laws, not Chapter 30B. Chapter 149 contracts require bidder prequalification by the Massachusetts Division of Capital Planning and Operations (DCPO). DCPO certifies contractors based in part on their contract performance. Serious performance problems with contractors should be reported to DCPO on a "DCPO Contractor Certification Evaluation Ques-

tionnaire." This form is available in Appendix C of the publication entitled *Designing and Constructing Municipal Facilities* or by calling DCPO.

The principal of the middle school in my jurisdiction would like to raise money so that the eighth graders can go to Washington D.C. A candy company has offered to provide the school with 25 cents for every candy bar a student sells, but there may be other companies that offer us a higher percentage per candy bar sold. Since the parties to the contract will be a school official and a private vendor, wouldn't this transaction be subject to Chapter 30B?

Yes. If the value of the contract is between \$1,000 and \$10,000, you must seek three quotations. If the value of the contract is \$10,000 or more, you must advertise for competitive sealed bids or proposals.

(Continued on the next page)

CHAPTER 30B TRAINING

The response to the Chapter 30B training questionnaire in our December issue of "Procurement Bulletin" was positive. Therefore, this Office has scheduled six training sessions, FREE OF CHARGE across the state. These sessions are designed to accommodate everyone from the novice to the seasoned procurement official.

The topics that will be covered are listed below. The locations are listed on the following pages. If you would like to attend all or part of any session, please fill out the registration form on page seven and return it to this Office by April 7, 1995.

COFFEE AND TEA WILL BE SERVED AT EACH LOCATION



See next page for locations and registration!

SCHEDULE OF TOPICS

| | Morning locations | Afternoon locations |
|--|------------------------------|--------------------------------|
| <i>Getting Started: A Primer for New Procurement Officials</i> | 9:30-10:00 | 1:00-1:30 |
| <i>Overview of Quotes and Bids</i> | 10:00-10:45 | 1:30-2:15 |
| <i>BREAK</i> | 10:45-11:00 | 2:15-2:30 |
| <i>Demystifying RFP's</i> | 11:00-11:45 | 2:30-3:15 |
| <i>Tips for Avoiding Bid Protests</i> | 11:45-12:15 | 3:15-3:45 |
| <i>Questions and Answers</i> | 12:15-12:30 | 3:45-4:00 |

EDITOR'S NOTE

This Bulletin is designed to serve the needs of public officials and others that implement Chapter 30B on a daily basis. Although this Office has an understanding of the issues that you face from the many phone calls that we receive, we would like to make sure that "Procurement Bulletin" is addressing your questions and concerns.

If this bulletin can be designed to better serve your needs, if you have a question or concern that you would like to see published, or any suggestions whatsoever, please write to the following address:

Office of the Inspector General
One Ashburton Place, Rm. 1311
Boston, MA 02108
Attn: Editor

Or, fax us at 617-723-3540.

TRAINING TRAINING *CHAPTER 30B* TRAINING TRAINING

LOCATIONS

Andover

April 26, 1995, 9:30am to 12:30pm at the *Town House* on the corner of Barnard and Main Streets. There is a municipal parking lot located at the rear of the building.

Directions: From the South: take Rt. 93 North to Rt. 125 to Rt. 28 North. Rt. 28 is also Main Street. Travel about 5 min. on Rt. 28, pass through the Phillips Academy Prep School Campus. After the second traffic light you will enter the downtown district. Go through the third light (at CVS) and take the next right onto Barnard Street. From the North: Take Rt. 93 South to Rt. 495 South. Take Rt. 28 South exit. Go through four sets of lights into downtown district. After fourth set of lights, take third left onto Barnard Street. From the West: Mass Pike East or Rt. 3 East to 495 North exit. Take Rt. 28 North exit. Go through four sets of lights into downtown district. After fourth set of lights, take third left onto Barnard Street.

Middleborough

May 9, 1995, 9:30am to 12:30pm at the *Middleborough High School Auditorium* on Route 28.

Directions: From Rt. 495 take exit four onto Rt. 105. If you are driving toward the south, take a left onto Rt. 105. If you are driving toward the north, take a right onto Rt. 105. At the first set of traffic lights, take a right onto Rt. 28. Travel Southeast on Rt. 28 for less than one-half mile. Middleborough High School is on the right.

Amherst

May 10, 1995, 1:00pm to 4:00pm at *The Jones Library Auditorium*, 43 Amity Street.

Directions: From Rt. 91 take the Northampton/Amherst exit. Travel East on Rt. 9 through Hadley. Cross the Hadley/Amherst line and travel for approximately one-half mile to a set of lights (College and S. Pleasant Streets). Take a left. At next set of lights, take another left. The Jones Library is the second building on the right. **Please park across the street.**

Pittsfield

May 11, 1995, 9:30am to 12:30pm at *Berkshire Community College*, Koussevitzky Arts Center, room 111, 1350 West Street, Pittsfield.

Directions: From Rt. 20, merge with Rt. 7. Follow Rt. 7 to Park Square in downtown Pittsfield. Go around Park Square, down the hill (West Street) pass the Berkshire Hilton Inn. Follow West St. Turn left at the stop sign. Berkshire Community College's main entrance is three miles on the right.

Newton

May 17, 1995, 9:30am to 12:30pm at the *Newton Free Library Auditorium*, 330 Homer Street, Newton Center. **Please do not park in the Library Parking Lot for this seminar.** There is sufficient on-street parking.

Directions: From the North, West or South: Traveler's choice to Route 128, take exit 24 (Route 30). At the end of the exit ramp, go East towards Newton and Boston. Proceed on Route 30, also Commonwealth Avenue for 3.1-3.2 miles and bear right at the traffic light onto Homer Street. You may park on Homer Street or Walnut Street. From the East: Take the Mass. Pike or Commonwealth Ave. West to Newton. Take Mass. Pike Exit 17. Stay in the middle lane at the end of the exit ramp and go straight ahead into Washington

TRAINING TRAINING CHAPTER 30B TRAINING TRAINING

Newton, Cont.

Street. Continue on Washington Street for 1.3 miles to Walnut St. Turn Left onto Walnut St. and drive South for 1.1 miles to Homer St. Turn Right onto Homer St. Or, take Commonwealth Ave. West from Boston through Newton until you reach Walnut St. (about 2 miles into Newton). Turn left onto Walnut St. and drive one block to Homer St. Turn right onto Homer St.

Worcester

May 18, 1995, 9:30am to 12:30pm at the *University of Massachusetts Medical Center*, Level B Lecture Hall in the Hospital, 55 Lake Avenue North.

Directions: From the Mass. Pike: Take exit 10, follow I-290 East to exit 21, turn right at the end of the ramp and follow Plantation Street South. Or, take exit 11, turn left onto Route 122, right onto Sunderland Road, and left onto Lake Avenue. From I-495: Take exit 23 onto Rt. 9 West. Cross the Lake Quinsigamond bridge and take the first right onto Lake Avenue. Or take exit 25 onto I-290 West. Take exit 22 and turn right at the end of the ramp. At the first traffic light turn left onto Plantation St. and proceed South. From I-190: At the Shrewsbury exit (on the left) take I-290 East to exit 21, turn right at the end of the ramp and follow Plantation St. South. From I-290: Take exit 21, turn right at the end of the ramp and follow Plantation St. South. Or, take exit 22, turn right at the end of the ramp, at the first traffic light turn left onto Plantation St. and proceed South.

REGISTRATION FORM

Name/ Title _____ Telephone _____

Address _____ City _____ State _____ Zip _____

Number of Persons _____

Location Choice:

- | | | | | | |
|--------------------------|----------|---------------|--------------------------|--------|------------|
| <input type="checkbox"/> | April 26 | Andover | <input type="checkbox"/> | May 11 | Pittsfield |
| <input type="checkbox"/> | May 9 | Middleborough | <input type="checkbox"/> | May 17 | Newton |
| <input type="checkbox"/> | May 10 | Amherst | <input type="checkbox"/> | May 18 | Worcester |

Complete this form and mail by April 7, 1995 to:
 Office of the Inspector General
 One Ashburton Place, Rm. 1311
 Boston, MA 02108

Or, fax this form to 617-723-3540.