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# PROCUREMENT BULLETIN

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## IG GREETINGS

*Omnibus ad quos praesentes  
litterae pervenerint, salutem*

My staff is busy preparing for upcoming seminars as part of the Massachusetts Certified Public Purchasing Official (MCPPO) program. For more information about this exciting program, you may visit our website at <http://www.state.ma.us/ig/ighome.htm>, or you may call our Office and ask to speak with Anne Tierney or Genesi Dorsey.

This issue of *Procurement Bulletin* contains helpful information about procuring electricity in the brave new world of deregulation.

Also, be sure to check out our new newsletter column on page three entitled, "Helpful Tips for Writing IFBs and RFPs."

Please fax your comments about this newsletter to us at (617) 723-2334.

Sincerely,

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Robert A. Cerasoli  
Inspector General

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Helpful Tips for Writing IFBs  
and RFPs

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## Procurement of Electricity Under Deregulation

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Although the legislation deregulating the sale of electricity in Massachusetts went into effect on March 1, 1998, the new rules governing the industry continue to be mired in controversy. Consumer activists critical of the legislation cite its failure to deliver more cost savings to consumers, and its bailout of utilities' "stranded assets." There will be a referendum question on this November's ballot which could repeal the new law. However, for the time being, electricity customers, including, cities, towns, and other governmental bodies, must begin to purchase electricity in the new, deregulated marketplace.

The goal of deregulation is to introduce competition into a market that had been controlled by monopolies. Policymakers hope that competition will lead to lower prices, as it did for long-distance telephone service when AT&T's monopoly was broken. However, most of us have found that the barrage of competing claims about price and service makes it difficult to determine which long-distance provider is offering the best deal. We are likely to encounter similar confusing claims from new electricity marketers promising us the cheapest, cleanest, or most reliable electricity available.

To help assess your jurisdiction's options for purchasing electricity, we spoke with officials from the

state's Department of Telecommunications and Energy (formerly the Department of Public Utilities), the Division of Energy Resources, and the Attorney General's Office.

**Question:** *Must a governmental body contracting for electricity for its own needs comply with the procurement requirements of M.G.L. c.30B?*

**Answer:** The purchase of electricity by a governmental body for its own needs will not be subject to the competitive procurement requirements of M.G.L. c.30B. Jurisdictions are free to choose new competitive electricity suppliers, or they may stay with their current suppliers, which will provide **standard offer service** for up to seven years.

**Question:** *What is standard offer service?*

**Answer:** Standard offer service is the price at which your current electricity supplier or its successor will provide you with power. Beginning March 1, 1998, the price should represent at least a 10 percent reduction from your total rate for electricity as of August 1997. Some utilities have indicated that they will be offering customers even greater reductions due to their successful sale of assets. The price will be adjusted annually, for up to seven years, until you choose a competitive supplier. At the end of seven years,

*Continued on the next page*



## Procurement of Electricity, cont.

customers must choose a competitive supplier. **You should keep in mind that once your jurisdiction chooses a new supplier, there are restrictions on returning to standard offer service.**

**Question: Should my jurisdiction consider purchasing electricity from a purchasing collaborative to try to get lower electricity prices?**

**Answer:** Your jurisdiction should first determine the new standard offer rate and compare it to the price offered by a competitive supplier chosen by a collaborative. If the collaborative cannot offer you a better price, there is no reason to change electricity suppliers at this time. Even if the collaborative can offer a better price, your jurisdiction should carefully evaluate the new supplier's background, reputation, and the terms of the deal.

**Question: How can I evaluate competing electricity deals?**

**Answer:** It will likely be difficult. Jurisdictions should be on their guard for electricity marketers selling deals that appear too good to be true. Some companies may promise low rates while glossing over various additional charges and fees. Some companies may offer a low initial rate but require you to sign a long-term deal, which may not be advantageous to your jurisdiction in the long run. Other companies will tout free goods or additional services that make the overall deal

hard to evaluate.

Therefore, we strongly recommend that jurisdictions avoid signing long-term electricity deals at this time. A new competitive market has just been created and it remains to be seen exactly where communities will be able to obtain the best long-term deals.

**Question: What protections do customers have against electricity marketers that engage in unfair and deceptive practices?**

**Answer:** The Attorney General's Office has submitted proposed regulations that would make some unfair and deceptive trade practices illegal. The regulations prohibit representations by electricity sellers which have the capacity to deceive or mislead a consumer with respect to products or services, price and terms, and contractual time periods. The regulations also require electricity sellers to disclose information about their products, services, pricing, term of agreement, business, and corporate identity. The regulations specifically prohibit nine unfair or deceptive acts and practices, including misleading claims about the environmental characteristics of an electricity seller's products, practices, and services.

If you believe that an electricity seller has engaged in unfair or deceptive trade practices, you may contact the Attorney General's Office at (617) 727-2200. Violations of these regulations are punishable under the Consumer

Protection Law, M.G.L. c.93A.

**Question: What is a municipal aggregator?**

**Answer:** A municipal aggregator is a city, town, or county contracting for electricity for its own governmental needs and on behalf of the citizens within its boundaries. Some jurisdictions are considering aggregation, in an effort to obtain a better rate for electricity for the entire community. The legislation exempts aggregation contracts from M.G.L. c. 30B, but does require jurisdictions to solicit bids for these contracts. In addition, jurisdictions must first adopt an energy aggregation plan which must be reviewed and approved by the Department of Telecommunications and Energy. Municipal aggregators may also be eligible for funding for demand-side management and renewable energy programs from the Massachusetts renewable energy fund, if they adopt an energy plan that is consistent with the state's energy plan and is certified by the Department of Telecommunications and Energy.

**Question: How can I obtain more information about electricity deregulation?**

**Answer:** The Division of Energy Resources is available to provide jurisdictions and citizens with technical assistance needed during the transition to a competitive electricity market. The Division has set up a toll-free phone number to handle questions Monday-Thursday from 8-8, and Friday and Saturday from 8-5. The number is (888) 758-4469.



## Purchasing Recycled Paper Products

Cities, towns, and other local governmental bodies that have decided to purchase paper and other products made from recycled materials need not hesitate to do so, even if similar non-recycled products are available at a lower price.

We recently learned that some local purchasing officials are hesitant to purchase recycled paper products under statewide contracts awarded by the state's Operational Services Division (OSD) because some prices are higher than prices for comparable paper products that do not contain recycled material.

OSD has developed an "Environmentally Preferable Products" (EPP) Program to help promote policies aimed at protecting the environment. Many products that qualify for the EPP designation contain a specific minimum percentage of post-consumer (recycled) content. OSD has determined that some EPPs, including many paper products and plas-

tic trash bags, are available in the marketplace at a value and quality comparable to their non-environmentally preferable counterparts. For this reason, all of the statewide contracts awarded by OSD for these commodities specify EPPs. For example, all printing and writing papers purchased under a statewide contract must contain a minimum of 30 percent recycled content.

Your jurisdiction is free to adopt its own goals for purchasing products made with recycled materials or to purchase EPPs from a statewide contract. Depending on availability, paper products made with recycled materials may at times cost more than their counterparts with no recycled content. However, many products, like the EPPs on OSD's list, are often available at attractive prices.

We recently sampled prices from

two large office supply vendors for 8 1/2" X 11" 20 lb. white copier bond to compare the costs of paper with 30 percent recycled content and paper with no recycled content. The price difference was less than 10 percent, and one vendor offered the bond with recycled content at a lower price than comparable paper with no recycled content.

If you are concerned about the possibility of paying higher prices for environmentally preferable products, we recommend that you solicit competitive price quotes from vendors for similar items with and without recycled content. You may very well discover that if you plan ahead and make your purchases when environmentally preferable products are readily available, you can help promote the state's environmental goals without having to pay more for your supplies.

### Helpful Tips for Writing IFBs and RFPs

Winter weather in New England can be unpredictable. When bad weather forces offices to close on bid opening days, procurement officials are faced with decisions about how to deal with the situation. One way to prevent this predicament is to include in your invitation for bids a notice concerning unexpected closures. The following is an example of such a provision:

**Notice concerning unexpected closures:**

If, at the time of the scheduled bid opening, City Hall is closed due to inclement weather or other unforeseeable events, the bid opening will be postponed until 2:00 p.m. on the next normal business day. Bids will be accepted until that date and time.

### Questions About Chapter 30B

*My jurisdiction is preparing an invitation for bids for fire vehicle repair. May I require potential bidders to attend a pre-bid conference to inspect the vehicle?*

Yes. A pre-bid conference can be useful for complex contracts, such as equipment repair contracts or construction contracts. You may require bidders to attend whenever it makes sense to do so. If you make attendance mandatory, include it in your minimum criteria.

However, be careful that mandatory attendance at a pre-bid conference does not reduce competition. You should provide bidders with plenty of notice of the pre-bid conference.

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## OIG Website

The OIG website is up and running. From this website you may download helpful publications such as the *Practical Guide to Drafting Effective Invitations for Bids and Requests for Proposals for Supplies and Services*. There are also numerous OIG reports available on the website. The address is <http://www.state.ma.us/ig/ighome.htm>

## New OSD Website for Local Governments

The state's Operational Services Division (OSD) recently set up a website for municipal procurement officials to obtain statewide contract information. The website contains links to the current statewide contract index; OSD updates; upcoming procurement projects; and the state surplus property page. The website address is [www.magnet.state.ma.us/osd/lgo/lgo.htm](http://www.magnet.state.ma.us/osd/lgo/lgo.htm).

## New MCPPO Courses Scheduled

New MCPPO seminars are scheduled for 1998. The seminars offered include the Public Contracting Overview (formerly called the General Seminar), Supplies and Services Seminar and a seminar on designing and constructing public facilities.

To obtain a list of courses and a registration form, call (617) 523-1205 or visit our website at <http://www.state.ma.us/ig/ighome.htm>.