

# MEMORANDUM #22, 2012

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

Five Middlesex Avenue, Suite 304, Somerville, MA 02145

Ph 617 666 4446 | Fax 617 628 4002 | TTY 617 591 8917 | [www.mass.gov/perac](http://www.mass.gov/perac)

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Joseph E. Connarton, *Executive Director*

## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Collusion/Fraud Provisions of Chapter 176

DATE: February 22, 2012

The Public Employee Retirement Administration Commission (PERAC) as well as the retirement boards in the Commonwealth are in the process of implementing the complex and challenging provisions of Chapter 176 of the Acts of 2011. One of the cornerstones of that legislation is the procurement requirements set forth in the new Section 23B of Chapter 32.

PERAC Memo #15/2012 provided guidance to the retirement boards as to the new procurement statute.

We would like to reiterate the importance of the aspect of that statute mandating that each prospective vendor certify that "...this proposal has been made and submitted in good faith and without collusion or fraud with any other person."

Similarly **each** retirement board member must certify that "to the best of the member's knowledge and belief, this proposal has been made and submitted in good faith and without collusion or fraud with any other person."

The retirement board member must file this certification with the Commission.

Also please note that this requirement must be met in any procurement of "...investment, actuarial, legal and accounting services."

Collusion and fraud can take place in many ways. One of the most insidious is a scenario where vendor A suggests to vendors B and C, who may be expected to respond to an RFP, that vendors B and C refrain from submitting a bid in exchange for vendor A not submitting a bid in a separate procurement process initiated by the same or another retirement board. We urge retirement board members to be wary about this and other possible methods by which fraud may be committed or collusion may take place. Retirement board members should seek specific assurances from vendors and prospective vendors during the procurement process regarding specific scenarios relating to this issue rather than simply relying on the assertions of the vendor.