



Office of the Inspector General Commonwealth of Massachusetts

M.G.L. c. 30B Advisory: Insurance Consultants Must Be Licensed

Insurance Consultants Holding Themselves Out as Advisers Must be Licensed Advisers and Should be Free From Financial Ties With Insurance Brokers

While contracts for the procurement of insurance are exempt from M.G.L. c. 30B, many municipalities use a competitive solicitation process for procuring insurance and will attest to the fact that competition results in real cost savings. Price competition gives underwriters incentives to lower prices and motivates brokers to make sure that they have complete information about your loss history and other factors that can really help lower your community's cost for insurance. In addition to generating competition, investing the time and effort to prepare a solicitation will help your community get better control over the risk factors that result in higher-than-necessary insurance costs.

Without a doubt, the purchase of insurance is complex. Your community may decide to contract with a consultant for advice on risks and levels of insurance and for assistance in soliciting and evaluating competitive bids. The consultant contract must be procured in compliance with M.G.L. c. 30B.

The Massachusetts Division of Insurance (DOI) advised this Office that if an insurance consultant is advising a municipality on its insurance needs, the consultant must hold an adviser license issued by DOI. Pursuant to M.G.L. c. 175, §177A, DOI requires that an insurance consultant take and pass an exam to be licensed as an "adviser" in order to provide advice, information, or recommendations relating to examining, accepting, and/or procuring any insurance policy. If the consultant is holding itself out as an adviser, this requirement exists even if the consultant holds a broker's license from DOI. Moreover, DOI advised this Office that it is not enough that one person in a consulting firm has an insurance adviser license. The consultant that is providing advice to your community must hold a current adviser license. This Office strongly recommends that any procurement conducted for an insurance consultant require that bidders demonstrate that they hold a current adviser license from DOI.

In addition, this Office strongly recommends against relying on a consultant to prepare your insurance solicitation and then permitting the consultant's firm or a firm in a related corporate structure to submit a bid for the resulting insurance contract. This could constitute a conflict of interest and is fundamentally unfair to other competitors. An insurance consultant should have no business relationship or financial tie with an insurance broker or agent that could affect his or her objectivity and impartiality. This Office recommends that municipalities avoid any potential conflict of interest by requiring disclosures from insurance consultants and brokers/agents.

This Office also recommends against a common practice in the reinsurance business whereby your insurance consultant enters into an agreement involving financial remuneration between it

and your municipality's insurance broker for claims tracking services. This Office recommends that municipalities prohibit such agreements between the municipality's insurance consultant and the municipality's insurance broker or agent.