



# OIG BULLETIN

*Official Newsletter of the Office of the Inspector General*



Photograph by Anna Lockett, 2023

Good day:

Last April, I read an article in the *Boston Globe* about two brothers – State Representative Chris Worrell and Boston City Councilor Brian Worrell – who opened a local constituent office in Dorchester to help “bring government to the people” in a district that, despite its close physical proximity to the State House and City Hall, felt much more distant for the residents living in that community. This idea and its overarching goal intrigued me, and I wanted to know more.

Frequently, when I call to arrange this type of meeting, I am met with some hesitancy. When people hear that the Inspector General wants to meet with them, they often think that they are in trouble. After all, to this point, the

Office of the Inspector General (OIG) is best known for its investigatory and compliance work. Under my leadership, I am determined to change that reaction and am focused on promoting partnerships with my colleagues at all levels of government when possible. While the missions of state and municipal agencies differ, I do believe that we have many shared goals. Good government is a collaborative effort. I believe that the OIG should serve as a resource to help make government work better today than it did yesterday and work even better tomorrow!

That said, I will never abandon or back away from the oversight, compliance and investigative aspects of the OIG’s mandate.

Representative Worrell graciously offered to meet me in the Dorchester office. Our visit included a tour of the neighborhood and local businesses, and we discussed how government can be more responsive to the needs of the community.

On November 13, I attended a community meeting at Prince Hall in Dorchester, organized and hosted by Representative Worrell and City Counselor Worrell. For me, it was a welcome chance to meet directly with the people I serve and to hear their concerns. I believe this is government at its best.

I intend to replicate this experience in a variety of ways. As I have said repeatedly, the OIG cannot fight fraud alone. We need to forge partnerships with like-minded public servants to build systems within agencies, municipalities, authorities, commissions and other entities to protect public resources, ensure transparency and provide business continuity, knowledge transfer and meaningful internal controls. In this way, we can mitigate and prevent fraud, waste and abuse that diverts precious public assets away from their intended purposes.

Another aspect of this effort is the FY 24 One Free Designee pilot program, which offers each municipality across the Commonwealth the opportunity to have one of their

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*Letter from the Inspector General, continued*

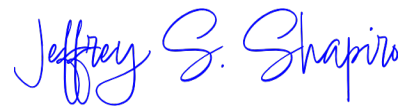
employees complete the three courses required to obtain a Massachusetts Certified Public Purchasing Official (MCPPO) designation, at no cost to the municipality during the pilot. The OIG is picking up this cost with the goal of exponentially increasing the number of certified procurement professionals working in municipal government. I am heartened that 121 communities have taken advantage of this pilot program, 19 of which have never had an MCPPO designee and 7 with employees whose designations had lapsed. My team will be working in the months ahead to engage even more communities.

I welcome your feedback on how the OIG can better serve as a resource for you and your agency or municipality.

As always, I am honored to serve as your Inspector General and to work with the dedicated OIG leadership and professional staff.

Thank you for reading the *OIG Bulletin* and working to mitigate and prevent fraud, waste and abuse. Only with your help can we effectively meet this challenge.

Sincerely,



Jeffrey S. Shapiro, Esq., CIG  
Inspector General



Pictured from left to right: Representative Chris Worrell, IG Jeffrey Shapiro, City Councilor Brian Worrell

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## Protect Your Community

If you suspect fraud, waste or abuse of public funds or property, you can confidentially report your concerns



Fill out our  
**Fraud Reporting Form**



Send us an email at  
**IGO-FightFraud@mass.gov**

## Have a Question about Chapter 30B?



Send us an email at  
**30BHotline@mass.gov**

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# Recent OIG Investigations and Case Updates

## Former Transit Police Sergeant to Pay Restitution in Stolen Wages Case



On November 2, 2023, a judge in the Boston Municipal Court (BMC) placed former transit police sergeant Michael Adamson on pretrial probation for three months. As a condition of the pretrial probation, Adamson must pay restitution in the amount of \$600 to the MBTA.

Adamson is one of three former transit police officers who were charged with larceny over \$250 based on a joint investigation by the Office of the Inspector General (OIG), the MBTA Transit Police Department (TPD), and the Suffolk County District Attorney's Office. The investigation uncovered evidence that the officers either left their shifts early or did not show up for shifts that they were paid in full to work.

The investigation began with a complaint about a TPD cruiser parked overnight in a residential area of Winthrop. A review of GPS data from Adamson's cruiser and other evidence revealed that he was absent from portions of his shifts on 15 separate occasions between October 25, 2017, and February 14, 2018. In total, Adamson was paid \$1,228.36 for hours he never worked.

In December 2021, a BMC judge placed the other two officers, Kenneth Berg, a former

TPD lieutenant, and Jason Morris, a former TPD sergeant, on pretrial probation with the condition to repay the MBTA \$8,460.97 and \$4,354.55 respectively. In total, the MBTA recovered \$13,415.52 of the stolen wages from all three defendants.

## Medford Contractor Sentenced in Tax Evasion Scheme

On October 19, 2023, a judge in the U.S. District Court in Boston sentenced Medford contractor Peter Tufts to two years of supervised release and 240 hours of community service following his July guilty plea to one count of tax evasion and two counts of submitting false loan applications. The judge also ordered Tufts to pay a fine of \$50,000, forfeiture of \$450,000 and restitution of \$551,941.

The OIG assisted state and federal agencies in this case. For additional information about the tax evasion scheme and investigation, please see page 5 of the [October 2023](#) issue of the *OIG Bulletin*.

## Three Individuals Arraigned for Pandemic Unemployment Fraud



On October 16, 2023, three defendants were arraigned in Suffolk Superior Court for allegedly collecting over \$97,000 in fraudulent pandemic unemployment assistance. The arraignments followed a joint investigation by the Attorney General's Office and

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*Recent OIG Investigations, continued*

the OIG, which stemmed from a complaint to the OIG's fraud hotline.

Aaron Fernandes, Katherine Quigley and Rebecca Holmes, all of Plymouth, were arraigned on multiple charges. Fernandes was charged with two counts of unemployment fraud, three counts of larceny over \$1,200, one count of identity fraud and one count of conspiracy to commit larceny. Quigley was charged with four counts of unemployment fraud, four counts of larceny over \$1,200, three counts of identity fraud and one count of conspiracy to commit larceny. Holmes was charged with one count of conspiracy to commit larceny.

As a condition of their release, the court ordered all three defendants to stay away from and have no contact with all witnesses in the case. While Fernandes has been held on \$2,500 cash bail, both Quigley and Holmes have been released on their own recognizance.

The cases are scheduled for a pretrial conference in Suffolk Superior Court on December 19, 2023. All defendants are presumed innocent unless and until they are found guilty beyond a reasonable doubt.



### **Former Medfield Parks and Recreation Director Indicted for Stealing Town Funds**

On October 5, 2023, a Norfolk County grand jury indicted the former Medfield Parks and Recreation Department Director for stealing town funds and exploiting his public position to enrich himself.

Kevin Ryder was indicted on four counts of larceny over \$1,200 by scheme, one count of larceny under \$1,200, one count of accepting illegal gratuities and two counts of using his official position to secure an unwarranted privilege.

These charges resulted from a joint investigation by the OIG and the Attorney General's Office. The town of Medfield cooperated in the investigation.

Ryder served as Medfield's Parks and Recreation Department Director from 2014 until August 2022. The investigation yielded evidence that Ryder had stolen over \$100,000 from the town. Much of the stolen property consisted of cash generated from entrance fees and concessions at Medfield's Hinkley Swim Pond. In addition, the investigation revealed that Ryder had purchased thousands of dollars' worth of personal items for himself using the town's Amazon business account, including merchandise to support his personal business.

Ryder will be arraigned in Norfolk County Superior Court at a later date. He is presumed innocent unless and until he is found guilty beyond a reasonable doubt.

### **Court Resolves Embezzlement Case Against Former Stow Treasurer**

On September 20, 2023, Pamela Landry, former Stow Town Treasurer, appeared in Concord District Court to resolve the criminal charges against her. The charges against Landry included one count of larceny over \$250 by single scheme, one count of making a false claim to a government agency, one count of check forgery and one count of uttering a false check. These charges arose from a joint investigation by the OIG and the Middlesex County District Attorney's Office that uncovered evidence that Landry embezzled between \$45,000 and \$133,584 from the town of Stow. The town has since recovered the stolen funds. For additional information about the charges, please see page 4 of the [December 2022](#) issue of the *OIG Bulletin*.

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*Recent OIG Investigations, continued*

The Middlesex District Attorney's Office recommended that the court find the defendant guilty, while the defendant asked the court to continue the case without a finding. The judge adopted the defendant's recommendation and continued the case without a finding for 18 months. The judge ordered that the defendant undergo a mental health evaluation and comply with any follow-up. The judge also forbade the defendant from working in a financial field, holding a position of public trust or working with vulnerable populations (e.g., the elderly, children, people with disabilities). If Landry complies with these conditions, the charges against her will be dismissed after 18 months.

## OIG Academy Public Boards and Commissions Training

Between July and November 2023, the OIG Academy presented its three-hour training, *Boards and Commissions: Know Your Responsibilities*, on six occasions. Approximately 300 students attended these trainings. Designed to educate members of public boards and commissions, as well as public officials and staff who regularly interact with these bodies, the training covers the following topics:

- Fiduciary duties and responsibilities of public board members
- Summaries of the state's Public Records Law and Open Meeting Law
- Contract management, with an emphasis on managing executive contracts
- Strategies for running effective meetings
- Tips on preventing and detecting fraud, waste and abuse
- Tools for effective oversight

There are no prerequisites, and the training is offered at no cost to attendees.

The OIG Academy will offer the training again on the following dates:

- Friday, February 9, 2024 (9:00 a.m. – 12:00 p.m.)
- Wednesday, April 24, 2024 (1:00 p.m. – 4:00 p.m.)

Registration closes two weeks before the class date.

If multiple employees from your jurisdiction would like to attend an upcoming *Boards and Commissions* training, but neither the February nor April training date works with your schedules, please contact us at [MA-IGO-TRAINING@mass.gov](mailto:MA-IGO-TRAINING@mass.gov). We may be able to schedule a separate training for your jurisdiction and customize some content to meet your needs.

Hope to see you in class soon!



IG Shapiro speaks with an attendee at a *Boards and Commissions* training in Burlington.

# Inspector General Supports Proposed Changes to Chapter 30B

Inspector General Jeffrey Shapiro recently sent letters to state legislative leaders expressing his support for two proposed updates to Chapter 30B, the state's municipal procurement law.

The first proposals under consideration by the Legislature ([House Bill 3127](#) and [Senate Bill 2019](#)) involve raising the upper limit of the price quotations threshold in Section 4 of Chapter 30B from \$50,000 to \$100,000 for all governmental bodies subject to the statute. See [M.G.L. c. 30B, § 4](#). In November 2022, the Legislature raised the threshold to \$100,000 for municipal schools and regional school districts only. See [Mass. Acts c. 198](#). As a result, under current law, school districts can use price quotations for procurements valued at \$50,000 to \$100,000. In contrast, all other governmental bodies subject to Chapter 30B must use competitive sealed bids or proposals in that price range. See [M.G.L. c. 30B, §§ 5, 6](#). The letter notes that it is not fair or equitable to apply different thresholds to different governmental entities within the same community, and Shapiro urges legislators to raise the price quotations threshold to \$100,000 for all governmental bodies subject to Chapter 30B.

The second proposal under consideration ([House Bill 3039](#)) involves amending Section 1 of Chapter 30B to broaden the current statutory exemption for snow plowing to include snow hauling and snow removal. See *id.* at [§ 1\(b\)\(17\)](#). Snow plowing, hauling and removal naturally fit together, and it does not make sense to exempt one service from the requirements of Chapter 30B but not the others. In addition, contractors offering these services may prefer to contract for them together. Currently, municipalities cannot take advantage of the statutory exemption for snow plowing if they procure the services together. This may place municipalities at a disadvantage in comparison to private customers.

The purpose of Chapter 30B is the same today as it was when the statute was first enacted in 1990 – to promote fairness, openness and transparency in municipal procurement. However, certain aspects of the current statutory scheme present challenges for many municipalities. The OIG believes that the proposals under consideration by the Legislature will address some of these challenges while preserving Chapter 30B's foundational principles of fairness and transparency.





# A Call to Simplify Electric School Bus Procurements

As the Commonwealth pursues its ambitious environmental goal of net zero greenhouse gas emissions by 2050, the OIG is calling attention to an aspect of Massachusetts procurement law that could challenge local school districts' efforts to electrify their bus fleets.

In October 2023, Inspector General Jeffrey Shapiro penned an [opinion piece](#) in the *Commonwealth Beacon* cautioning that the complicated process that districts face in purchasing electric school buses could slow the Commonwealth's green energy agenda and also lead to unintentional violations of Massachusetts procurement laws. Emphasizing the bedrock principles of open and competitive procurements, Shapiro called on the Legislature to enact measures to streamline electric school bus purchases.



Current procurement rules, specifically provisions codified in Chapters 30 and 30B of the Massachusetts General Laws, require governmental entities to conduct separate procurements for electric buses and their associated charging infrastructure. See [M.G.L. c. 30B, § 5](#); [M.G.L. c. 30, § 39M](#). While buses are subject to procurement laws governing public vehicles, charging stations are subject to separate laws applicable to public works construction projects. See *id.*

That dichotomy means that school districts face the challenge of undertaking two separate procurements – with distinct objectives, rules, deadlines and budgets – for in-

terrelated services that must be compatible. This unwieldy process has the potential to cause unnecessary complications as districts work to make the switch to clean energy.

"The heart of the challenge facing school districts is the requirement under current law that they procure fuel sources separately from vehicles," Shapiro wrote. "While that may seem like a minor bureaucratic detail, it runs the risk of greatly complicating districts' move to cleaner bus transportation and could lead to violations of procurement regulations and laws."

As one way to address this problem, the Inspector General suggests that the state's Department of Energy Resources could advocate for a statutory change that would define electric buses and their charging infrastructure as either energy management or conservation projects under [M.G.L. c. 25A](#).

Quasi-public agencies such as the Metropolitan Area Planning Council (MAPC) and the Massachusetts Clean Energy Center (MassCEC) have been trying to streamline the electric bus procurement process and assist school districts with it. However, even if school districts use a third party like MAPC or MassCEC to acquire buses and construct charging infrastructure, those third parties



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*A Call to Simplify Electric School Bus Procurements, continued*

must still follow the applicable state procurement laws.

The Commonwealth's Operational Services Division offers statewide contracts that public entities can leverage to purchase goods and services with state-negotiated pricing. However, the fact that only one bus vendor appears on the state's list for heavy-duty buses demonstrates a lack of market competition. In addition, the statewide contract for electric vehicle charging stations caps contract labor costs at \$50,000, creating a potential barrier to charging infrastructure projects.

Shapiro lauded efforts to move the Commonwealth toward its environmental goals, such as [Senate Bill 2218](#)'s proposal that 100% of new vehicles purchased by the Commonwealth be electric by 2026 and that 100% of vehicles used by public entities have zero emissions by 2035. Of further note, the Environmental Protection Agency's Clean School Bus Program is offering \$5 billion in grants and rebates to support schools' transition to electric buses. But the Inspector General warned that the law as it currently stands could stymie school bus electrification efforts.

Shapiro suggested that identifying solutions to the double-procurement problem in the school bus realm could serve as a model to electrify other public fleets.

"It would be a mistake to suggest that [these] obstacles . . . are merely technical issues and that the end goal of reducing carbon emissions justifies the means," Shapiro wrote. "I certainly do not want to impede progress on this important initiative, but neither do I want to abandon the principles of fair competition and transparency in the expenditure of public funds."

If your municipality or school district has questions on how to proceed with electric school bus procurements, please reach out to the Chapter 30B Hotline for assistance by

using the [online Chapter 30B Technical Assistance Form](#), emailing [30BHotline@mass.gov](mailto:30BHotline@mass.gov) or calling (617) 722-8838.

## OIG Academy Advising Services



The OIG Academy offers advising services to students.

Our advisors can help current and prospective students select classes and navigate MCPPO designation application and renewal requirements. Our advisors can also share strategies for remaining in good standing with designations and certifications.

Contact the OIG Academy at [MA-IGO-TRAINING@mass.gov](mailto:MA-IGO-TRAINING@mass.gov) to schedule a one-on-one virtual meeting with a staff member. We're here to answer your questions and support your professional development!

### Did you know...

Student suggestions have led to the creation of many OIG Academy classes.

If you have an idea for a new OIG Academy class, let us know!

Email us at [MA-IGO-Training@mass.gov](mailto:MA-IGO-Training@mass.gov) or call us at (617) 722-8884.



# Procurement Files under Chapter 30B: Requirements and Best Practices

Chapter 30B requires governmental bodies to keep a file of certain procurement records (procurement file). See [M.G.L. c. 30B, § 3](#). This article summarizes legal requirements and describes some best practices related to procurement files under Chapter 30B, including detailed information about specific documents that must be included in the file for each statutory threshold. (Spoiler alert: the requirements vary from threshold to threshold.)



Under Chapter 30B, governmental bodies must maintain a procurement file for all contracts valued at \$10,000 or more. See *id.* This file must be kept for six years from the date of final payment under the contract. *Id.* Because procurement files help to ensure accountability and transparency, the OIG recommends that governmental bodies maintain procurement files for all purchases – even purchases below the \$10,000 threshold and purchases that are exempt from 30B – as a best practice. See *id.* at [§ 1\(b\)](#) for a list of procurements that are exempt from Chapter 30B.

## **Procurement File Format**

Under Chapter 30B, governmental bodies may maintain procurement files in paper or electronic format. The statute does not express a preference for paper versus electronic records, and Massachusetts law generally recognizes the validity of electronic records. See [M.G.L. c. 110G, § 7](#) (“If a law requires a record to be in writing, an electronic record satisfies the law.”). Public purchasing officials should consult legal counsel with any questions about format, as some jurisdictions may have bylaws or ordinances that require the retention of procurement records in a specific format.

Regardless of format, as a best practice, the OIG recommends that governmental bodies maintain a separate, organized file for each procurement. For procurement files maintained in electronic format, the OIG advises gathering all required documents and saving them together in a folder on a secure platform. The OIG does not recommend that employees responsible for purchasing simply retain email messages with relevant information in their inbox; unorganized email messages can be difficult to locate and preserve.

## **Procurement File Content**

The following is a summary of the specific records that governmental bodies should keep in their procurement file for each Chapter 30B threshold to ensure that they satisfy statutory recordkeeping requirements.

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*Procurement Files under Chapter 30B: Requirements and Best Practices, continued*

**Price Quotations** – For supplies or services that cost \$10,000 to \$50,000 (\$100,000 for municipal schools or regional school districts) under [Section 4 of Chapter 30B](#), jurisdictions should keep the following information in their procurement file:

- The names and addresses of all persons from whom quotations were sought;
- The written purchase description used for the procurement;
- The names of all persons who submitted quotations;
- The date and amount of each quotation received; and
- The executed contract and any contract amendments.

**Invitations for Bids (IFB)** – For supplies or services that cost more than \$50,000 (more than \$100,000 for municipal schools or regional school districts) under [Section 5 of Chapter 30B](#), jurisdictions should keep the following information in their procurement file:

- The IFB, including any amendments;
- The written justification for the use of any proprietary specifications;
- The public notice, including a copy of the newspaper advertisement and the posting on [COMMBUYS](#);
- The [Goods and Services Bulletin](#) notice if the contract value is more than \$100,000;
- The record of the bid opening (either the minutes of the open meeting or the signed statement of the procurement officer and witnesses);
- All bids received, including the non-collusion forms;
- Any bid corrections, modifications or withdrawals, as well as any notices of bid corrections, modifications or withdrawals;
- Any notices of bid rejections or procurement cancellation;
- The notice of award; and
- The executed contract – including all amendments, addenda, modifications, extensions and option exercises – plus written explanations regarding any increases or decreases in price or quantity.

**Requests for Proposals (RFP)** – For supplies or services that cost more than \$50,000 (more than \$100,000 for municipal schools or regional school districts) under [Section 6 of Chapter 30B](#), jurisdictions should keep the following information in their procurement file:

- The written rationale for the decision to use an RFP;
- The RFP, including any amendments;
- The justification for using any proprietary specifications;

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*Procurement Files under Chapter 30B: Requirements and Best Practices, continued*

- The public notice, including a copy of the newspaper advertisement and the posting on [COMMBUYS](#);
- The [Goods and Services Bulletin](#) notice if the contract value is more than \$100,000;
- The register of proposals;
- All proposals received, including the non-collusion forms;
- Any proposal corrections, modifications or withdrawals, as well as any notices of proposal corrections, modifications or withdrawals;
- Any notices of proposal rejections or procurement cancellation;
- The individual and composite proposal ratings and written explanations;
- The written rationale for the contract award if the contract was not awarded to the proposer submitting the lowest price;
- The notice of the contract award; and
- The executed contract – including all amendments, addenda, modifications, extensions and option exercises – plus written explanations regarding any increases or decreases in price or quantity.

**Real Property Acquisitions** – For real property acquisitions valued at more than \$35,000 under [Section 16 of Chapter 30B](#), jurisdictions should keep the following information in their procurement file:

- The solicitation documents and any amendments;
- The public advertisement;
- Any unique acquisition determinations;
- All [Central Register](#) notices;
- All proposals received;
- All evaluation materials;
- A copy of the disclosure of beneficial interests; and
- The signed purchase and sale agreement or lease.



**Real Property Dispositions** – For real property dispositions valued at more than \$35,000 under [Section 16 of Chapter 30B](#), jurisdictions should keep the following information in their procurement file:

- The declaration that the property is available for disposition;
- The solicitation documents and any amendments;

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*Procurement Files under Chapter 30B: Requirements and Best Practices, continued*

- The public advertisement;
- All [Central Register](#) notices;
- All proposals received;
- All evaluation materials;
- A copy of the disclosure of beneficial interests; and
- The signed purchase and sale agreement or lease.

Finally, remember that special circumstances may require additional documentation in the procurement file. For example:

- If a governmental body conducts a **sole source procurement**, the procurement file must include that only one practicable source exists for the supply or service, along with the vendor's name, the type and amount of the contract, the supply or service procured, and the procedures used to determine that a sole source procurement was necessary. See *id.* at [§ 7](#).
- If a governmental body conducts an **emergency procurement**, the procurement file must include a written determination that the time required to comply with Chapter 30B would endanger the health or safety of people or their property, as well as the vendor's name, the type and amount of the contract, the supply or service provided, the basis for the emergency determination and a copy of the emergency posting in the [Goods and Services Bulletin](#). See *id.* at [§ 8](#).



Also, as a best practice, the OIG recommends that governmental bodies using statewide contracts include the applicable [COMMBUYS](#) user guide in their procurement file. See *id.* at [§ 1\(c\)](#).

Procurement files should contain enough information for a third party to fully understand how the procurement was conducted and the basis for the contract award. Remember, the recordkeeping requirements of Chapter 30B, summarized above, provide a floor, not a ceiling. In other words, the statute provides the minimum requirements, and jurisdictions may opt to include additional information, such as correspondence with one or more vendors, in a procurement file.

The OIG's Chapter 30B Technical Assistance Hotline is available to answer questions about procurement files. Please feel free to contact the hotline by phone at 617-722-8838, by email at [30BHotline@mass.gov](mailto:30BHotline@mass.gov) or by submitting a question using the [OIG's online form](#).



# Free Cybersecurity Awareness Training for Municipalities



The Commonwealth's Executive Office of Technology Services and Security's (EOTSS) Office of Municipal and School Technology is offering free cybersecurity awareness training to local jurisdictions through the Municipal Cybersecurity Awareness Grant Program (MCAGP) in 2024. The trainings will teach students about the latest criminal cyber-attack techniques, the identification of phishing emails and students' role in keeping their organization safe from cyber-attacks.

The MCAGP offers four cybersecurity awareness training paths. Each path includes training and monthly threat simulations (phishing campaigns). Jurisdictions may choose to enroll employees in one or more of the following paths:

- **Traditional:** This training path includes multiple short modules, no longer than six minutes each.
- **Advanced:** This training path also includes multiple short modules but is intended for users with a solid cybersecurity awareness foundation.
- **Comprehensive:** This training path offers longer, more in-depth modules intended for newer employees or those who may require additional training to

gain a foundational understanding of cybersecurity awareness.

- **Education:** This training path, designed with public schools in mind, includes in-depth modules for a total of ten hours.

The MCAGP encourages employees of the following local governmental bodies to apply:

- Municipalities;
- Public school districts;
- Municipal libraries;
- Police and fire departments;
- Planning commissions;
- Municipally run utility departments, airports and housing authorities; and
- Massachusetts Public Pension Systems (PERAC).

Applications for the 2024 MCAGP are due by January 10, 2024. The program accepts students on a rolling basis, and the application period will close early if all spots are filled. The application form is available on EOTSS's [website](#). For more information about the program, please email EOTSS at [cyberawarenessgrant@mass.gov](mailto:cyberawarenessgrant@mass.gov).

Cybersecurity  
is Everyone's  
Responsibility!



# OIG Issues Smart Building Technology Procurement Recommendations

The OIG recently issued a letter to State Treasurer Deborah Goldberg, who serves as Chair of the Massachusetts School Building Authority (MSBA), and MSBA Executive Director Mary Pichetti, recommending measures to mitigate the risks of procuring smart technology for school building projects.

The focus of the OIG letter was a “smart” lighting system installed in Minnechaug Regional High School in 2012. The school, located in Wilbraham, Massachusetts, was a participant in the MSBA’s “Model School” program. This program funds, in part, the construction of new schools based on existing designs the MSBA has deemed successful. When rebuilding Minnechaug Regional High School as part of this program, the Hampden-Wilbraham school district decided to install a network-based lighting system. The school district chose a proprietary software system that did not provide the district with access to the system’s server, backup software to restore the system or an override switch.



In August 2021, the lighting system’s server was corrupted by malware and went into default mode (lights on). Because the school did not have the ability to repair the system, the school could not turn off the lights until a vendor for the system repaired it in February 2023. The Hampden-Wilbraham Regional School District superintendent’s office informed the OIG that the excess 18 months of electricity and repairs cost the school district up to \$150,000.



Smart technology systems can lead to greater energy efficiency and cost savings. However, they can also lead to unforeseen costs if you are not aware of their operational requirements. To mitigate the operational and financial risks involved in smart technology, the OIG recommends the following measures to school districts – and municipalities generally – looking to upgrade their buildings:

1. Ensure that the smart technology system you choose is designed and installed by qualified, reputable vendors. Require prospective vendors to provide proof of prior work and customer references.
2. Consider utilizing open-source, rather than proprietary, smart technology software, if available. Open-source software may allow for easier adaptation to future updates the software requires and may give you more choices for repairs and upgrades. If you decide to procure proprietary software, look for proprietary software with guidance for administering and maintaining the software, and understand what the proprietary vendor maintains control over.
3. When procuring a smart technology system, determine what ongoing service needs may be necessary for the system, including hardware and software up-

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*OIG Issues Smart Building Technology Procurement Recommendations, continued*

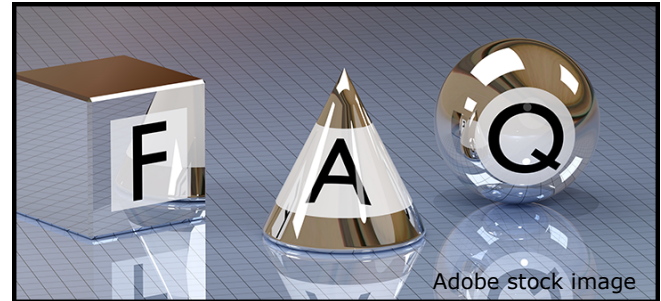
grades, and which of these services will need to be performed by an outside vendor. Be sure to budget for these anticipated service needs.

4. Consider entering into a service agreement for necessary preventative and regular maintenance that municipal employees cannot perform. Use a competitive procurement process in seeking a service provider.
5. Ensure your municipality retains some administrative control of the smart technology system it procures. This control should include manual override capabilities and administrative access to the server to update security and virus protection.
6. Ensure you have written operation and maintenance instructions for the system. Train your staff on how to use the system as much as possible without outside assistance from a vendor.
7. Require warranty information from the vendor and determine if the warranty covers only certain aspects of the system, such as hardware or software. Determine whether enhanced warranty protections are available and make financial sense for your municipality.
8. Upon installation, prepare response plans for problems that may arise with the smart technology system, especially instances of software corruption or failure, as well as a plan to replace the system once it becomes outdated.
9. As with any technology your municipality uses, keep smart technology software up to date, including the latest antivirus updates, and require regular cybersecurity training for your employees.

By following these recommendations and ensuring that adequate consideration is given to risks that smart systems pose, municipalities can maximize the benefits of innovation and energy conservation while also preventing the waste of public funds or

system failures that can jeopardize their operations.

The [OIG's letter](#) to Treasurer Goldberg and Executive Director Pichetti is available on the [OIG's website](#).



## Frequently Asked Questions

**Q: Our jurisdiction conducted an invitation for bids (IFB) where we required certain forms from vendors. After opening the bids, we noticed that one vendor had typed their name rather than signing the form. Can we still consider this vendor's bid, or must we reject it as non-responsive?**

**A:** You can accept the vendor's bid if the typed signature can be considered a minor informality. Under Chapter 30B, minor informalities are "minor deviations, insignificant mistakes, and matters of form rather than substance . . . which can be waived or corrected" without prejudicing full and fair competition. [M.G.L. c. 30B, § 2](#). Chapter 30B requires that you waive minor informalities or allow the bidder to correct them. *Id.* at [§ 5\(f\)](#). If the mistake and the intended bid are clearly evident on the face of the bid document, the procurement officer must correct the mistake to reflect the intended correct bid and notify the bidder in writing; the bidder cannot withdraw the bid. *Id.* However, if the mistake is clearly evident on the face of

*Continued on next page*



*Frequently Asked Questions, continued*

the document but the intended bid is not, the bidder can withdraw the bid. *Id.*

To determine whether the typed signature is a minor informality, consider whether the bid form and the handwritten signature are required by statute. If the form and a handwritten signature are required by statute, then you may have to reject the bid as nonresponsive. You should consult with your legal counsel to determine if the law required a handwritten signature at the time of submission.

If your jurisdiction included the form as part of the bid submission but the form was not required by statute, determine whether allowing the vendor to provide a handwritten signature after the bid deadline would be prejudicial to other vendors who did include a handwritten signature.

If you determine that including a handwritten signature was not a statutory requirement and that allowing the vendor to provide a handwritten signature would not be prejudicial to other bidders, then it may be considered a minor informality. In that case, you can obtain the necessary signature from the vendor after submission and consider the bid when awarding the contract. Before making a final determination, we recommend that you consult with legal counsel.

**Q: Our city recently conducted an invitation for bids (IFB) for parts and supplies for our water and sewer department. The IFB included many items for which potential vendors had to provide pricing per unit. One vendor submitted a bid pricing sheet that did not make sense. The vendor filled in the per unit pricing and the estimated quantities for all the items they were bidding on, but their calculation of the total bid price was not correct. Can we recalculate the total bid price ourselves, or must we reject the bid as nonresponsive?**

**A:** It depends on how clear the vendor's mistake was and whether it constitutes a minor informality. As explained in the previous FAQ, under Chapter 30B, minor informalities are "minor deviations, insignificant mistakes, and matters of form rather than substance . . . which can be waived or corrected" without prejudicing full and fair competition. [M.G.L. c. 30B, § 2](#). Chapter 30B requires that municipalities waive minor informalities or allow bidders to correct them. *Id.* at [§ 5\(f\)](#).

Under certain circumstances, a mathematical error may constitute a minor informality if the intended values are clearly evident. For example, if a vendor writes  $10 \times 10 = 10$  on their bid pricing sheet, it is clear that the vendor intended the product to be 100, but omitted the second 0. However, if a vendor writes  $10 \times 14 = 10$  on their bid pricing sheet, it is unclear which of those numbers are correct. If you cannot easily discern the intended correct values, the error is likely not a minor informality.

You should consult with legal counsel to determine if the vendor's error here constitutes a minor informality. If you determine that it does not, you must reject the bid as nonresponsive and choose the lowest-priced bid from a responsive and responsible vendor. See *id.* at [§ 5\(g\)](#).

**Q: Our town wants to procure the services of a credit card vendor for use at the town transfer station. We want to give residents the option to use their credit cards to pay when dropping off trash. We know that some procurements related to transfer stations are exempt under Chapter 30B, but we can't find anything mentioning credit card transactions. Would procuring the services of a credit card vendor for use at the transfer station be exempt under Chapter 30B?**

**A:** No. Payment processing services are not exempt from Chapter 30B. Chapter 30B

*Frequently Asked Questions, continued*

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applies to every contract for the procurement of services by a governmental body unless the service falls under an exemption. See [M.G.L. c. 30B, § 1\(a\)](#). “[A] contract for the collection, transportation, receipt, processing or disposal of solid waste, recyclable or compostable materials” is exempt from the requirements of Chapter 30B. *Id.* at [§ 1\(b\)\(30\)](#). For example, a contract providing for the movement of waste from your town’s transfer station to an endpoint for disposal at another site would be exempt from Chapter 30B. However, a vendor providing credit card transaction services would not fall under this exemption as that service is separate and distinct from the disposal of waste.

Because this procurement is not exempt from Chapter 30B, you must follow the appropriate steps under the applicable Chapter 30B threshold. The necessary steps will vary depending on the overall cost of the contract. If you estimate the contract will cost less than \$10,000, you must use sound business practices to procure credit card services. *Id.* at [§ 4\(c\)](#). If you estimate it will cost between \$10,000 and \$50,000, you must solicit written responses from three vendors who customarily perform such work. *Id.* at [§ 4\(a\)](#). Finally, if you estimate the contract will cost over \$50,000, you must issue an invitation for bids (IFB) or request for proposals (RFP). *Id.* at [§§ 5, 6](#).

**Q: I am the Chief Procurement Officer for a small city. I want to start advertising an invitation for bids (IFB), but our city is in the middle of the appropriation process. I am concerned that the appropriation will take longer than expected and that I will not have enough time to conduct the procurement if we wait until the money is available. Can I issue and advertise the IFB now?**

**A:** Yes, you can issue and advertise the IFB now. You need not wait until the city has secured funding. It is not uncommon for jurisdictions to begin conducting an IFB or request for proposals (RFP) prior to the completion of the appropriation process, but there are some steps you need to take.

An IFB and RFP must include all contractual terms and conditions applicable to the procurement. See [M.G.L. c. 30B, §§ 5\(b\)\(3\), 6\(b\)\(3\)](#). Therefore, you must note in both your solicitation and advertisement that the procurement is subject to appropriation or the availability of other funds. See *id.* Vendors need to know that, although funding is expected, there is a chance it may not materialize. Some vendors may not want to invest time and money in preparing a response to a solicitation that may be canceled due to a lack of funding.

Additionally, if you go through the IFB process and identify the responsive and responsible vendor offering the lowest price, remember that you cannot execute the contract until the funding has been appropriated and is available for at least the first year of the contract. See *id.* at [§ 12\(a\)](#).

# Contact and Subscription Information



## Contact the Massachusetts Office of the Inspector General

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Chapter 30B Assistance Hotline  
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### Attorney General's Office

For questions related to public construction, public works or designer selection, please contact the AGO at (617) 963-2371.



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### BPI is Celebrating its 10<sup>th</sup> Anniversary!



In 2013, the Legislature created the OIG's Bureau of Program Integrity (BPI). This OIG division monitors the quality, efficiency and integrity of programs administered by the state Executive Office of Health and Human Services.