

## Summer Fun for Your Constituents

### Best Practices for Contracting with Concessionaires

#### Introduction

As we enter the winter season, your municipality may be looking forward to sunnier days by planning for seasonal concession contracts. Under concession contracts, vendors pay your municipality for the right to use or manage public property to conduct business and hopefully make a profit. If your municipality intends to enter a concession contract when temperatures rise – such as for a concession stand at the municipal park, ball field, or a snack bar at a public lake – now is the time to start planning for those procurements and contracts.

#### What You Should Know

When properly executed and managed, concession contracts can be an alternative non-tax revenue stream for a municipality with a value-added use of public land. The contracts also benefit your constituents. The right oversight consists mainly of time that staff spends conducting proper procurements, ensuring that contracts comply with the law and best practices, and reconciling payments received with contract terms. Failure to properly enter and oversee concession contracts, like other types of contracts, can lead to unintended negative consequences for your municipality. In September 2025, the OIG [issued a letter](#) about a town that failed to follow procurement law, mishandled cash receipts from a concessionaire, and ignored basic internal control practices to prevent fraud, waste, and abuse. If your municipality is considering entering a concession contract, the recommendations below can ensure that the contract is clear, legally sound, and advantageous to your community – and not the subject of a future OIG letter.

#### Recommendations

##### Procurement

***Use a competitive process to award a concession contract.*** Concession contracts with private vendors are generally subject to Chapter 30B of the Massachusetts General Laws, the Uniform Procurement Act. Once

chosen, the vendor should agree to and sign a written contract with your city or town. Pay attention to the following aspects of Chapter 30B:

- **Real property transaction vs. procurement of services – Choose carefully.** Your municipality should decide whether the procurement is for services or for the disposition of real property, *i.e.*, a lease. If the concession contract will give the vendor exclusive access to the public property and the rights of a tenant, your procurement is considered a disposition of real property (even though the vendor's use of the property is limited to a certain term) by lease and must follow Section 16 of Chapter 30B.
- **Licenses – An exception to Chapter 30B.** For certain short-term concession arrangements, such as a food truck at a weekend festival, a city or town might choose to use a license agreement with a vendor. Although the OIG recommends that a city or town still use fair and open competition when issuing licenses, licenses are not subject to Chapter 30B. Licenses differ from concession contracts and only provide a municipality with one-time revenue from the licensing fee.

## Contract Terms and Conditions

Include clear and unambiguous contract specifications to ensure the concessionaire understands the scope of the service, performance and quality standards, property maintenance requirements, special stipulations (like resident or senior citizen discounts), and any specific legal or local requirements. Be sure to consider the following:

- **Determine and use the most appropriate compensation formula.** Your municipality should determine a fair and equitable compensation formula and include it in any procurement solicitation and in the written concession contract. Compensation formulas may include one-time lump-sum payments or flat-rate periodic payments, or may be based on a percentage of total gross or net concession income or profit.
- **Include a “right to audit clause” in the written contract.** A clause allowing for the review and verification of the vendor's income and expenses is vital when the contractual compensation formula is based on either a profit or revenue percentage.
- **Require accurate vendor recordkeeping and reporting.** The written vendor contract should include recordkeeping, record retention, and vendor reporting requirements so that you can verify contract compliance.
- **Outline payment processes that comply with Massachusetts municipal finance law and local rules.** Vendors must make payments directly to the municipal treasurer. The treasurer should appropriately record and account for all vendor payments under any contract and share this information with the municipal accountant and the department head responsible for overseeing the vendor contract.

## Internal Controls

Your municipality should have internal controls specific to its concession contract(s) as part of fiscal management and oversight. Make sure that you have controls in place to verify the vendor's compliance with the contract and with local rules and guidelines on an ongoing basis. Create a contract management

plan to identify who in your organization is responsible for oversight, what reporting requirements they need to follow, and how you will track compliance and oversight. The contract management plan should be incorporated into your internal control plan.

## Vendor Management

You should monitor concession contracts to confirm that vendors continue to meet their contractual obligations, including satisfactory performance and prompt and accurate payments to the municipality. Vendors are providing services to your constituents, and you have a right and responsibility to ensure that vendors safely and fairly provide quality services. Document any compliance or performance issues so that you have a record to enforce the terms and conditions of the contract and to evaluate future proposals from the vendor.

## Conclusion

While the days of warm weather may seem far away, you can set your municipality up for success by planning for concession contracts now. Make sure that your municipality is guided by a “tone from the top” about the importance of following procurement law, drafting comprehensive contracts, implementing internal controls, and properly managing vendors.

## Helpful Links

- Massachusetts Office of the Inspector General [Chapter 30B Manual](#)
- Division of Local Services (MA Department of Revenue) [Enterprise Fund Bulletin](#), [Enterprise Fund Manual](#), [Costing Municipal Services Workbook](#) and [Case Study](#)
- OIG Academy [contract administration classes](#)

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