

June 9, 2025

Via Electronic Mail

Justin Casanova-Davis
Town Administrator
Town of Norfolk
One Liberty Lane
Norfolk, MA 02056
jcasanovadavis@norfolk.ma.us

Re: Lease of 12 Sharon Avenue

Dear Mr. Casanova-Davis:

Thank you for meeting with the Office of the Inspector General (OIG) on May 27, 2025, regarding the request for proposals (RFP) issued by the town of Norfolk (town) for a lease of land at 12 Sharon Avenue, Norfolk, and the subsequent agreement between the town and its lessee (lessee). As discussed at that meeting, the OIG has reviewed the documentation produced by your office in connection with the lease. We appreciate the time and effort you and your staff have dedicated to this matter and trust that this letter will be of assistance going forward.

As you are aware, cities and towns are required to follow the provisions of Chapter 30B of the Massachusetts General Laws (Chapter 30B) in procuring supplies and services, as well as in acquiring or disposing of real property. Section 16 of Chapter 30B (Section 16) governs the disposition of real property and imposes a number of requirements designed to ensure open, fair, and competitive processes. In instances where a town intends to lease its real property, it must follow the applicable procedures in Section 16.

The records produced by the town indicate that the lessee reached out to the town in 2020 to explore expanding a solar array project under development at 100 Pond Street onto the adjacent, town-owned property at 12 Sharon Avenue. In order to comply with Section 16, the town issued an RFP in June 2021 seeking a long-term lease of 12 Sharon Avenue for the purpose of a “solar array installation.” In addition to the terms of a traditional lease, the RFP required that “proposals must include the installation of paved access from Pond Street to this property.” The OIG understands that at the time the RFP was issued, the lessee owned (or had the option to purchase) all of the abutting property located between 12 Sharon Avenue and Pond Street.

The lessee submitted the only proposal in response to this RFP eight days after the deadline. The town accepted the proposal and ultimately executed a lease agreement with the lessee. Before the lease was executed, the town agreed to accept a negotiated lump-sum payment from the lessee in lieu of the access road requirement.

In reviewing the documents produced by the town, the OIG identified the following issues concerning the RFP and lease:

1. The RFP's requirement that the successful bidder construct a paved access road would have required that bidder to negotiate an easement across private property which the town knew the lessee was already developing. Including this requirement clearly limited competitiveness such that only the lessee would reasonably be able to submit a responsive proposal.
2. The town negotiated with the lessee to accept a lump-sum payment in lieu of a paved access road, thus granting an alternative to a requirement in the RFP that other potential vendors may have considered in choosing not to submit a proposal. When the town concluded that this requirement was no longer necessary, it should have amended or reissued the RFP without that requirement so as not to prejudice other vendors.
3. The town entered a lease agreement that provides for annual rent in an amount less than that offered in the lessee's proposal. The OIG estimates the value of that reduced revenue to be over \$80,000 over the life of the lease, not including any extensions. The town was unable to provide a clear explanation for this reduction and should have documented its justification in the procurement file.
4. The town accepted a substantially late proposal from the lessee, despite the RFP unequivocally stating that late proposals would not be accepted. When the town received this proposal, it should have rejected the proposal or amended the RFP to extend the deadline for all vendors.

In regard to 12 Sharon Avenue, the town must communicate with the lessee concerning their projections for construction, interconnection, and permitting milestones to ensure that the lessee makes any contingent payments to the town.

Further, the OIG recommends the town take the following steps to ensure future procurements are open, fair, competitive, and in compliance with Chapter 30B:

1. Implement internal procedures concerning the disposition and acquisition of real property that comply with Section 16, ensuring that the town:
 - a. Identifies municipal needs in advance of the solicitation process and narrowly tailors RFP requirements to address those needs; and
 - b. Consults with town counsel to evaluate whether the RFP should be amended or reissued if the town seeks to dispense with requirements identified in the RFP. The town is encouraged to contact the OIG's Public Procurement Technical Support Team with procurement questions.

2. Enroll town employees involved in procurements in OIG Academy courses and designate at least one employee to obtain the OIG's Massachusetts Certified Public Purchasing Official (MCPPO) Designation. Ensure that the town maintains at least one MCPPO at all times.

We acknowledge and appreciate that when the lessee first reached out, the town recognized that the proposed transaction was subject to Chapter 30B and made efforts to comply with the statute. We hope our discussion and this letter will assist you in future procurements, including the lease of municipal property for the purpose of solar development. It is important that cities and towns act as good stewards of their assets while simultaneously helping to achieve the Commonwealth's clean energy goals.

If you have further questions regarding this matter, please feel free to contact James Craig, Senior Counsel, Procurement and Compliance, at james.s.craig@mass.gov.

If you have additional questions about the town's disposition of real property, please review the Chapter 30B Manual and other resources on the OIG's website, or contact the OIG's Public Procurement Technical Support Team at www.mass.gov/oig-public-procurement.

Thank you again for your assistance in our review of the 12 Sharon Avenue RFP and lease.

Sincerely,



Jeffrey S. Shapiro, Esq., CIG
Inspector General

cc (by email):

Anita Mecklenburg, Chair, Town of Norfolk Select Board
Jennie M. Merrill, Esq., Harrington Heep LLP
Eugenia M. Carris, Esq., General Counsel, OIG
George Xenakis, Director of Audit, Oversight and Investigations, OIG
Nataliya Urciuoli, Senior Executive Assistant, OIG