



GLENN A. CUNHA
INSPECTOR GENERAL

The Commonwealth of Massachusetts

Office of the Inspector General

JOHN W. McCORMACK
STATE OFFICE BUILDING
ONE ASHBURTON PLACE
ROOM 1311
BOSTON, MA 02108
TEL: (617) 727-9140
FAX: (617) 723-2334

May 1, 2017

The Honorable Michael O. Moore, Chair
Committee on Municipalities and Regional Government
State House, Room 109B
Boston, MA 02133

The Honorable James J. O'Day, Chair
Committee on Municipalities and Regional Government
State House, Room 540
Boston, MA 02133

Dear Chairman Moore and Chairman O'Day:

This Office regularly reviews special legislation seeking to exempt dispositions of public property from the public bidding process set forth in the Uniform Procurement Act, M.G.L. c. 30B ("Chapter 30B"). This Office supports the principle that dispositions of publicly-owned property should be handled through advertised competition, which guarantees fairness and accountability and protects the taxpayers' interest.

Section 16 of Chapter 30B establishes a simple requirement for open and fair competition for the disposition of publicly-owned property. The process also offers built-in flexibility. Local governments have broad discretion to restrict the use of the property, establish eligibility requirements, and write the rules for selecting the winning proposal, so long as those rules are reasonable and fair.

Chapter 30B also permits a municipality to dispose of real property at less than fair market value in certain instances. For example, if a municipality seeks to promote a particular civic or social mission in order to effectuate a public purpose, the municipality may remove price as a criteria in the competitive process. Chapter 30B also permits a municipality to set a minimum price for real property. However, if the municipality accepts lower than fair market value, it must publish a rationale for this choice in the *Central Register*.

I recognize that under some circumstances, a city or town may view a competitive disposition as impracticable and may deem it preferable to petition the Legislature for an exemption from the law. In this circumstance, this Office will usually recommend that the bill require the municipality to follow, at a minimum, M.G.L. c. 30B, § 16, paragraphs (a), (b) and (g). Paragraph (a) requires that the municipality declare the property surplus and specify any restrictions on the subsequent use of the property. Paragraph (b) requires the municipality to

Chairman Moore and Chairman O'Day

May 1, 2017

Page 2 of 2

determine the value of the property through procedures customarily accepted by the appraising profession as valid. Paragraph (g) requires that if the municipality sells the property for less than fair market value, that the municipality publish a notice in the *Central Register*.

Similarly, if a city or town petitions the Legislature for an exemption to acquire land, the Office recommends that the bill require the municipality to follow, at a minimum, M.G.L. c. 30B, § 16, paragraph (e)(2), which offers transparency to protect the public interest.

I hope this information is helpful. As always, my Office stands ready to assist you and your committee. If you have questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Glenn A. Cunha".

Glenn A. Cunha
Inspector General