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INSPECTOR GENERAL

## The Commonwealth of Massachusetts

### Office of the Inspector General

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August 6, 2019

The Honorable Jason M. Lewis, Chairman  
Joint Committee on Education  
State House, Room 511-B  
Boston, MA 02133

The Honorable Alice Hanlon Peisch, Chairwoman  
Joint Committee on Education  
State House, Room 473G  
Boston, MA 02133

Re: House 3757 – Increasing Purchasing Thresholds in M.G.L. Chapter 30B

Dear Chairman Lewis and Chairwoman Peisch:

I write to bring your attention to House 3757, *An Act Relative to School Operational Efficiency*. This bill amends M.G.L. Chapter 30B, which governs the procurement methods cities, towns and other jurisdictions (collectively, “jurisdictions”) must use to procure supplies, services and real property. Chapter 30B, also known as the Uniform Procurement Act, ensures that jurisdictions get the supplies and services they need at a reasonable price and in a fair and transparent manner.

House 3757 raises dramatically the price thresholds in Chapter 30B that determine which procurement method a jurisdiction must use for a purchase. Specifically, the bill doubles the price threshold – from \$50,000 to \$100,000 – for using written solicitations. Among other things, therefore, passage of this bill would allow jurisdictions to limit competition for a \$100,000 purchase to three vendors of the jurisdictions’ choosing; further, jurisdictions could award a \$100,000 contract after receiving just one quote. My Office respectfully opposes such changes as they would have significant cost consequences, limit competition, and make jurisdictions vulnerable to fraud, waste and abuse.

The Office of the Inspector General’s mission is to prevent and detect fraud, waste and abuse in public spending. My Office was involved in drafting the original Uniform Procurement Act, and we have developed a specialized expertise in the interpretation and implementation of the statute. We have a comprehensive training program and provide guidance to municipal officials on using the public procurement laws as intended.

Chapter 30B is based on three principles:

1. Uniform contracting procedures promote competition and fairness.
2. Fair, robust competition for larger procurements saves money and promotes integrity and public confidence in government.
3. Scaled procedures based on dollar values reflect that larger contracts merit more attention than smaller contracts and enable jurisdictions to devote more attention to larger contracts.

For example, Section 3 of Chapter 30B allows jurisdictions to use sound business practices for purchases under \$10,000. Section 4(a) generally requires jurisdictions to solicit at least three written quotations to purchase a supply or service that costs between \$10,000 and \$50,000. The jurisdiction can solicit quotes from any vendor that customarily provides the item or service needed. Importantly, the statute does not require a jurisdiction to *receive* three written quotations; consequently, a jurisdiction can purchase a supply or service costing up to \$50,000 even if it receives just *one* quote. In both of these procurement methods – sound business practices and written solicitations – the jurisdiction can choose which vendors to contact for prices; the procurement does not have to be open to all interested vendors.

By contrast, a jurisdiction must use an invitation for bids (“IFB”) or a request for proposals (“RFP”) for goods and services costing more than \$50,000. Unlike written solicitations, IFBs and RFPs require jurisdictions to open the procurement to all interested vendors. When using IFBs and RFPs, moreover, jurisdictions must provide more details about the goods or services they seek and how they will choose the winning vendor.

House 3757 would raise the upper threshold for soliciting quotes from \$50,000 to \$100,000. The bill also raises the IFB and RFP threshold to over \$100,000. Allowing jurisdictions to solicit quotes for purchases of up to \$100,000 eliminates open and competitive procurements for most municipal purchases. The statute’s current requirement to use an IFB or an RFP for purchases over \$50,000 ensures that large purchases are completed in a competitive, transparent and accountable manner. This threshold is not unusual: a number of other states, including New York and Texas, require similar competitive processes at \$50,000 as well.

Proponents of the threshold increase claim that Chapter 30B’s procurement processes are burdensome and time-consuming. We disagree. As custodians of public funds, we should not view accountability measures as a burden. Further, the only timeline in Chapter 30B for IFBs and RFPs is a two-week advertising period. The statute’s intent is to give jurisdictions the tools to procure supplies and services in a fair, open and competitive process, thereby protecting the public’s investment in government. Large purchases should be subject to greater accountability and the procedures of an IFB or an RFP.

Chairman Lewis and Chairwoman Peisch  
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Finally, the upper thresholds for using quotations have increased twice in the last five years. In 2014, the threshold was increased from \$25,000 to \$35,000. And in 2016, the threshold was increased to its current limit of \$50,000. As a result, the threshold has more than quadrupled since Chapter 30B's enactment in 1990, when it was set at \$10,000. For context, the buying power of \$10,000 in 1990, based on a basic inflation calculation, has doubled to only about \$20,000. The statute therefore already allows jurisdictions to use solicitations for more than double the buying power than it did when the Legislature first enacted it.

Increasing thresholds to make purchasing "quicker" by reducing documentation and advertising requirements also makes jurisdictions more vulnerable to fraud, waste and abuse. My Office strongly recommends that robust, accountable and competitive procedures be used in all procurements, especially those with a high dollar value. We do not want to return to the days before we had Chapter 30B.

Thank you for your consideration. I respectfully request that House 3757 receive an unfavorable report from your committee. If you have any questions or would like to discuss this issue further, please do not hesitate to contact me.

Sincerely,



Glenn A. Cunha  
Inspector General