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INSPECTOR GENERAL

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Office of the Inspector General

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November 14, 2019

Steven Ellis  
Town Administrator  
Montague Town Hall  
One Avenue A  
Turners Falls, MA 01376

**Re: Disposition of Town-Owned Land**

Dear Mr. Ellis:

This letter concerns an allegation that the town of Montague (the "Town") violated Chapter 30B of the Massachusetts General Laws ("Chapter 30B") in its attempted sale of Town land: parcel 29-180 ("Lot F"). The Office of the Inspector General (the "Office") reviewed the disposition process for Lot F and identified problems with (1) how the Town valued Lot F; and (2) the requirement in its request for proposals ("RFP") that restricted eligible buyers to all but one.

In 2018, the Town tried to sell Lot F through a Request for Proposals ("RFP") process. Based on its review, the Office determined that the Town failed to comply with Chapter 30B in the following ways:

1. Property valuation: Chapter 30B requires that the Town determine the value of a property through procedures customarily accepted by the appraising profession. See M.G.L. ch. 30B, § 16(b). The Town listed the value of Lot F at \$5,100 in its RFP based on the maps on the Town Assessor's online graphic information system provided by Main Street GIS, LLC in 2016. Using dated information provided from a graphic information mapping system is not a customarily accepted appraisal procedure. Indeed, in 2018 Patriot Properties, Inc. appraised Lot F's value at \$20,200 – nearly four times higher than the value listed in the Town's RFP.
2. Restrictive requirement: The RFP included a requirement that respondents to the RFP must own an abutting property to Lot F. There is only one abutter, meaning there was only one possible eligible respondent to the RFP. The Town stated that it added this requirement due to (1) stipulations in the Town's preexisting subdivision

plan involving Lot F; and (2) frontage regulations under local zoning bylaws that limited the parcel's use without an easement. However, this restriction established a non-competitive process with only one eligible buyer to purchase the property. This requirement violates the spirit of a fair, open and competitive process required for public procurements, including the disposition of real property. A public jurisdiction cannot determine or mandate that one buyer is uniquely qualified to purchase Lot F. Additionally, the requirement in the Town's RFP presupposes that no other potential buyer might find value in Lot F.

In 2018, the Town received one bid for Lot F, from the only abutter, for the price of \$1,000. During the Office's review, the Town rejected the \$1,000 bid and subsequently cancelled the RFP. If the Town plans to conduct another disposition, it should ensure it follows all of the requirements in Chapter 30B.

Should you have any questions about land dispositions or other aspects of Chapter 30B, please review the Office's Chapter 30B Manual, or contact our Chapter 30B Hotline at (617) 722-8838 or via email at 30BHotline@state.ma.us. Additionally, the Office offers a real property class as part of its Massachusetts Certified Public Procurement Official ("MCPPO") Program; the class teaches public employees about the purchase, sale, lease and rental of real property under Section 16 of Chapter 30B.

Thank you for your attention on this matter. If you have any questions, please feel free to contact me at (617) 722-8853.

Sincerely,



George Xenakis  
Director of Investigations

cc: Richard Kuklewicz, Select Board Chairman  
Michael Nelson, Select Board Vice Chairman  
Christopher Boutwell, Select Board Clerk