



# Office of the Inspector General

April 2018

Volume 24, Issue 2

## PROCUREMENT BULLETIN

Dear Public Officials:

I would like to thank the staff of the local jurisdictions that hosted the MCPPO classes offered via videoconference this year, including Stephanie Fisk and Kurt Zinnack at Gateway Regional School District in Huntington, Kathleen Thut at COMM Fire District in Centerville, and Karyn Puleo and Mary Mendes at UMass Lowell. Videoconferencing classes allows the Office to reach public officials who, because of time or budget restrictions, may not be able to attend our classes in Boston. Without the dedication of the staff from these jurisdictions, who take time from their busy schedules, these videoconferences would not be possible. With your assistance, we were able to reach more people. Thank you for your commitment to good government and training.

I would also like to congratulate the 46 MCPPO designees who attended our first recertification class last month. As many of you know, the Office designed this new, two-day class especially for experienced procurement professionals. The class feedback was extremely positive, and all 46 attendees passed the exam administered as part of the course. The Office is offering three more recertification classes this semester. See page 11 for more information.

Additionally, on May 21, 2018, the Office is offering a free course for public boards and commissions members in Springfield. This three-hour class is designed to help public board and commission members understand their responsibilities and to give them the tools they need to fulfill their obligations to the best of their abilities. See page 7 for more information on the class schedule.

Also in May, we will hold our ninth *Story of a Building* at the Norfolk County Agricultural High School in Walpole, in collaboration with the Massachusetts School Building Authority. Attendees will receive an overview of laws and regulations concerning public school building projects, as well as insights from Norfolk County Agricultural High School staff regarding their experience in their recent school building project. Please see page 9 for more information on this class.

Last but certainly not least, I am pleased to welcome several new staff members to the MCPPO program. Ashley Nelson recently joined the Regulatory and Compliance Division and has quickly become an integral member of the MCPPO team. Among other responsibilities, she supports our MCPPO classes and the publication of the *Procurement Bulletin*. The newest member of our MCPPO team is Molly Conneely, an experienced presenter and attorney who will serve as an instructor for the MCPPO program. Please look for Molly in our classes this spring.

Thank you for your time and consideration in reviewing the Office's publications. We are always looking for new ways to share helpful and important information. To that end, we are hard at work on two new training videos: one for members of public boards and commissions and a second with tips and tools related to contract administration. Watch for the release of these videos early this summer.

Please do not hesitate to contact the Office with comments or questions regarding our programs, or to report fraud, waste or abuse in the use of public funds.

Sincerely,

Glenn A. Cunha  
Inspector General

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### PROTECT YOUR COMMUNITY

If you suspect fraud, waste or abuse of public funds or property write or call to confidentially report your concerns.

**24-Hour Hotline:** (800) 322-1323

**Email:** [IGO-FightFraud@state.ma.us](mailto:IGO-FightFraud@state.ma.us)

#### **U.S. Mail**

Office of the Inspector General  
One Ashburton Place, Room 1311  
Boston, MA 02108



## **USE COMPETITIVE PROCEDURES FOR EXEMPT SUPPLIES AND SERVICES**

As you may know, under Section 1(b)(21) of Chapter 30B contracts for the “towing and storage of motor vehicles” are exempt from the *Uniform Procurement Act*. However, the Office of the Inspector General (Office) recommends that local jurisdictions use an open, fair and competitive process to acquire automobile towing and storage services. By applying Chapter 30B to the procurement of services that are otherwise exempt, you help ensure that your jurisdiction obtains services from responsible and responsive vendors at the best price or best value for your residents, even when your jurisdiction is not paying the vendor directly.

Your local jurisdiction creates a demand for towing services because local officials have the authority to have vehicles towed when there are parking violations on public property or drivers need emergency roadside assistance. Through a vehicle towing and storage contract with a local



jurisdiction, a vendor stands to generate substantial revenue by regularly towing and storing vehicles. The public expects that the local jurisdiction protected their interests, including ensuring that the vendor is qualified and that the towing charges are reasonable; and vendors expect open and fair competitive processes when a local jurisdiction contracts for a service that it needs. As a result, your jurisdiction should consider using a competitive procurement process to ensure that there is open and fair competition with responsible vendors for these kinds of service contracts.

A local jurisdiction recently sought guidance from the Office related to the procurement of towing and storage of motor vehicles. The jurisdiction did not have any policies related to procuring services exempt from Chapter 30B and the jurisdiction did not procure automobile towing and storage services with a competitive process. In that case, the vendor offered to provide the jurisdiction with the towing and storage services at no cost. Nevertheless, the vendor generated substantial revenue from the contract because drivers had to pay the vendor for towing and storage charges. Thus, the jurisdiction created a ready market for a single vendor without ensuring that drivers were receiving a fair price for the towing and storage services. Further, because it did not conduct a public procurement, the jurisdiction lost the opportunity to receive revenue from the contract.

To avoid such pitfalls, your jurisdiction should approve and implement a policy outlining how to procure towing and storage services, even though it is exempt from Chapter 30B. The policy should be drafted with Chapter 30B principles in mind and should ensure that you allow for an open, fair and competitive process. A level and competitive playing field should exist for all service contracts, especially when a local jurisdiction creates a market for private vendors by prompting a demand. Further, a prequalification or screening process for vendors interested in providing certain services, such as towing and storage, helps ensure that the public is receiving services from a qualified vendor at a reasonable price. For more information about adopting a procurement policy for your jurisdiction, please see page 3 of the *Bulletin*.



## **THE IMPORTANCE OF CREATING A WRITTEN PROCUREMENT POLICY**

Local officials sometimes ask why the Office of the Inspector General recommends creating and adopting written procurement policies when the *Uniform Procurement Act*, M.G.L. c. 30B, §§ 1-22 (Chapter 30B), already identifies scaled procedures based on dollar values for buying and disposing of supplies, services or real property. The answer is simple. While Chapter 30B outlines how to achieve open and fair competition, it is not a step-by-step guide. Therefore, your jurisdiction can do more to ensure compliance, consistency and proper recordkeeping when seeking supplies, services and real property or disposing of surplus supplies or real property. As a best practice, each jurisdiction should create, adopt and use written procurement policies that reflect your jurisdiction's rules, organizational structure and authorization processes. By adopting a written procurement policy, your jurisdiction will:

- 1) Create uniformity, consistency and predictability;
- 2) Foster accountability and transparency; and
- 3) Reinforce ethics laws, standards of conduct and fair competition for the procurement of all supplies and services.

Your local jurisdiction's procurement policy should identify the:

- 1) Qualifications necessary to be a Chief Procurement Officer (CPO) and the staff position that serves as the CPO;
- 2) Appointment process of a CPO;
- 3) Conditions under which the CPO will delegate authority to other positions to conduct procurements along with a list of the forms that are required;
- 4) Key procedural elements for all procurements, including thresholds, advertising requirements, timelines and recording requirements;
- 5) Recording requirements related to procuring supplies or services valued at less than \$10,000 in accordance with sound business practices;
- 6) Criteria to be used when procuring services that are exempt from Chapter 30B;
- 7) Policies addressing the disposition of surplus supplies, including an objective manner in which to assess the value of supplies estimated to be under \$10,000;

*(Continued on page 4)*



*(Continued from page 3)*

- 8) Procedures for real property transactions under \$35,000;
- 9) Procedures for lower (but not higher) thresholds related to bidding or soliciting price quotations from vendors;
- 10) Standard forms and other documents used in the procurement process;
- 11) Criteria used to evaluate a cooperative purchase agreement to ensure that the agreement is not based on a preferred vendor list;
- 12) Procurement provisions contained in your jurisdiction's bylaws;
- 13) Practices required for e-procurements;
- 14) Internal controls used to prevent fraud, waste and abuse in the procurement process and comply with the ethics laws;
- 15) Positions that have the authority to award contracts and the procedures for reviewing and signing contracts;
- 16) Positions that can and cannot engage in outside employment;
- 17) Disclosure processes, including "outside activities" forms that help identify potential conflicts of interests individual employees may have;
- 18) Selection processes for the "procurement management team" for certain types of procurements; and
- 19) Contract administration practices ranging from verifying the receipt of supplies and services to the completion of the procurement process.



Procurement policies help ensure that procurements by your jurisdiction adhere to the letter of the law as well as the spirit of the law in every transaction related to the acquisition or disposition of supplies, services or real property.



## **FREQUENTLY ASKED QUESTIONS RELATING TO PROCUREMENT**

Q1: Our town would like to hire a company to manage the town's public transfer station. Is the management of the public transfer station subject to Chapter 30B, even though the disposal of solid waste is exempt under Section 1 of Chapter 30B?

A1: Yes. While the "collection, transportation, receipt, processing or disposal" of solid waste is exempt from Chapter 30B, the management of a transfer station facility is a separate and distinct service from that of the disposal of solid waste. The management of a public transfer station is a service. "Services" is defined as "the furnishing of labor, time, or effort by a contractor, not involving the furnishing of a specific end product other than reports." See M.G.L. c. 30B, § 2. Therefore, Chapter 30B applies to the procurement of management services related to a public transfer station.



Q2: For the convenience of staff and visitors, my jurisdiction would like to have a stand-alone Automatic Teller Machine (ATM) in our Town Hall. My jurisdiction would not receive any income from, or be charged a fee by, the bank to have the ATM in our Town Hall. Is a lease agreement related to the placement of an ATM on public property with a private bank subject to Chapter 30B?

A2: Yes. It is the disposition of real property under Section 16 of Chapter 30B in the form of a lease. If the estimated value of the disposal of real property is in the form of a lease and is over \$35,000, you must: (1) declare the space available; (2) state any reuse restrictions; (3) determine the value in accordance with procedures customarily accepted in the appraising profession as valid; and (4) advertise for proposals. Section 16 of Chapter 30B requires real property proposals to be opened in public, unlike proposals referenced under Section 6 of Chapter 30B.



If the disposition of the lease for space occupied by the ATM is less than \$35,000, you must at a minimum: (1) declare it available; (2) state any reuse restrictions; (3) determine its value; and (4) if it is at less than fair market value, list the disposition in the *Central Register* explaining the reason for the decision and disclosing the difference between such value and the price received.

(Continued on page 6)

(FAQs, continued from page 5)





*(FAQs, continued from page 5)*

**Q3:** I am the food services director for the town's school department and will be procuring lunchtime pizza delivery for the schools. We would like to include taste as a quality requirement in our solicitation for price quotations or invitation for bids. May we establish a quality requirement for taste in our specifications to ensure the selected vendor offers pizza that the students will want to eat?

**A3:** Yes. Requiring that a food product meet certain taste criteria is a good way for a local jurisdiction to fairly evaluate quality when procuring food. In order to do this, you must state in your specifications the criteria for which taste will be considered "acceptable." This may be included as your quality requirement whether you are soliciting price quotations or issuing an invitation for bids (IFB). You may require vendors to provide "pizza samples" for tasting to your selection committee as part of the process, much like a site visit or sample that is required in the context of other types of supplies or services that are subject to Chapter 30B.

For example, you could specify that at least four out of five taste testers on your selection committee must find the pizza taste "acceptable." This way, "acceptable taste" becomes a quality requirement of the bid. Other quality requirements may include thin or thick crust pizza, gluten-free ingredients, and vegetarian and dairy-free options. Like any other quality requirement, only those quotations or bids that meet all of your quality requirements will be considered responsive. Whether you are soliciting price quotations or issuing an IFB, you must award the contract to the responsive and responsible vendor providing the lowest price for pizza that meets all of your quality requirements.



Chapter 30B Hotline: (617) 722-8838



## **DON'T MISS OUT ON LEARNING ABOUT PUBLIC PROCUREMENT THIS SPRING**

*Immediately following MassNAHRO's Spring Conference  
The Commonwealth of Massachusetts Office of the Inspector General Presents*

### **Advanced Topics for Housing Authorities and Other Public Procurement Officials: Bidding, Contract Administration, Procurement Fraud and Other Procurement Essentials**

**Date:** Wednesday, May 23, 2018  
**Time:** 9:00 a.m. – 4:00 p.m.  
**Location:** Sea Crest Hotel  
350 Quaker Road  
Falmouth, MA 02556

In this one-day class, you will learn about public procurement laws such as Chapter 30B and Chapter 149, best practices for contract administration, the prevention and detection of procurement and contract fraud, and the protection of personally identifiable information. Attendees are eligible for six continuing professional education (CPE) credits or professional development points (PDPs). Lunch will be provided. The cost of this class is \$200 per person.

**To register, please complete the registration form available at [www.mass.gov/how-to/register-for-an-mcppo-seminar-or-class](http://www.mass.gov/how-to/register-for-an-mcppo-seminar-or-class).**

## **COMING SOON TO WESTERN MASSACHUSETTS**

*The Commonwealth of Massachusetts Office of the Inspector General Presents*

### **Are You a Member of a Public Board or Commission? Know Your Responsibilities**



**Date:** Monday, May 21, 2018  
**Time:** 10:00 a.m. – 1:00 p.m.  
**Location:** Pioneer Valley Planning Commission  
60 Congress Street, 1st Floor  
Springfield, MA 01104

This three-hour class is essential for every member of a public board, commission, committee or authority (collectively, “public board”), as well as for public officials, members of the general public, and staff who work with or regularly interact with public boards. All members of public boards have a duty to actively oversee the officials who report to them and to ensure that the public funds they administer are spent appropriately. **This is a tuition-free class.**

**To register, please complete the registration form available at [www.mass.gov/how-to/register-for-an-mcppo-seminar-or-class](http://www.mass.gov/how-to/register-for-an-mcppo-seminar-or-class).**



**REMINDER**

**MCPPO Program Registration Policy**



All registration forms must be mailed to the Office and accompanied by your payment. Registration forms received via fax can no longer be accepted. Purchase orders are not sufficient forms of payment. We thank you for your cooperation and continued support.

**MCPPO DESIGNATIONS**

**Application Policy**

As a reminder, the Office accepts CORI Acknowledgement Forms and MCPPO designation applications by mail. If you submit the CORI Acknowledgement Form by mail, it must be notarized and you must include a copy of a valid, government-issued photo identification. You may also submit CORI Acknowledgment Forms and MCPPO designation applications in person at the Office of the Inspector General. CORI Acknowledgment Forms and designation applications can be found at [www.mass.gov/files/documents/2016/08/01/mcpdesig.pdf](http://www.mass.gov/files/documents/2016/08/01/mcpdesig.pdf).



**BRING AN MCPPO CLASS DIRECTLY TO  
YOUR JURISDICTION BY VIDEOCONFERENCE**

To join our live MCPPO classes remotely, please contact Joyce McEntee Emmett, Director of the MCPPO program, at (617) 722-8835 or at [Joyce.Emmett@state.ma.us](mailto:Joyce.Emmett@state.ma.us), to determine if your videoconferencing platform is compatible with our videoconferencing system. If you can provide a learning space that is convenient for you, your staff and other procurement officials, you may be able to participate in our live MCPPO classes scheduled in Boston. Some of the advantages of hosting a videoconference class include a closer and more convenient location for participants, opportunities to network with other jurisdictions and cost savings on travel-related expenses.





The Office of the Inspector General and the Massachusetts School Building Authority present:

## **STORY OF A BUILDING**

hosted at **Norfolk County Agricultural High School**

400 Main Street  
Walpole, MA 01208



**Tuesday, May 1, 2018**

8:30 a.m. – 4:30 p.m.



The Massachusetts Certified Public Purchasing Official (MCPPO) program, together with the Massachusetts School Building Authority (MSBA), invites you to join us on May 1, 2018, for the ninth *Story of a Building*, a day-long seminar that gives students an in-depth look at building and renovating public schools. This seminar will be hosted by the Norfolk County Agricultural High School in Walpole. The high school recently completed a building project, including renovating existing space, adding seven new classrooms, and creating new space for student guidance and special education.

The school's project team will discuss how they maintained timelines, completed mandatory filings and ensured that work was completed to the highest standard. In addition, they will provide an overview of the visioning and planning process, cost management, strategies to overcome challenges and ensure that the construction process progresses as smoothly as possible.

The MSBA project team will discuss the Statement of Interest process (*i.e.*, the MSBA grant application) and its collaborative purchasing initiative.

Finally, you will learn about the most-current research on the relationships between learning goals, design principles and spatial settings from Daniel Wilson, Chair of Learning Environments for Tomorrow at Harvard University.

Please complete the registration form at [www.mass.gov/files/documents/2018/03/28/regmcpo.pdf](http://www.mass.gov/files/documents/2018/03/28/regmcpo.pdf).

**We hope to see you there!**



## ***AN ANNOUNCEMENT FROM THE COMMONWEALTH'S OPERATIONAL SERVICES DIVISION***

### **Save the Date for the 2018 MASSBUYS EXPO**

You are invited to join the Operational Services Division (OSD), statewide contract vendors, and government representatives at the 2018 MASSBUYS EXPO,\* which will be held at Gillette Stadium on May 10th. We hope you will join us as we celebrate the 20th Anniversary of MASSBUYS.

Launched as the Star Exposition in 1999, the MASSBUYS EXPO connects businesses to government, enhancing the relationships between OSD's statewide contract vendors and the public purchasers across the Commonwealth who use statewide contracts. For the past 19 years, MASSBUYS has fostered a culture that encourages business growth, competition for the state's business and economic development as vendors cultivate partnerships with other vendors, state agencies, local governments and higher education.



The EXPO has evolved over the years and has been held in a variety of locations throughout the Commonwealth, including John B. Hynes Convention Center, the Bayside Expo, the Worcester Centrum, the Boston Convention and Exhibition Center, the DCU Center, and, most recently, Gillette Stadium. Over the past three years, the average annual attendance at MASSBUYS was 2,540 individuals, primarily comprised of exhibitors and attendees.

As we enter our 20th year, we plan to continue this tradition and pledge to make the 2018 MASSBUYS EXPO a memorable occasion for all who attend.

\*Attendance at the MASSBUYS EXPO is reserved for statewide contract vendors who exhibit at the event, employees of the Commonwealth, and employees of those entities that are eligible to purchase goods and services from OSD's statewide contracts.



# Office of the Inspector General

*Glenn A. Cunha, Inspector General*

The Massachusetts Certified Public Purchasing Official (MCPPO) Program

## Recertification for Massachusetts Certified Public Purchasing Officials

**PREREQUISITE: MUST BE AN MCPPO IN GOOD STANDING**

**COURSE LEVEL: ADVANCED**

**INSTRUCTIONAL METHOD: GROUP-LIVE**

**ADVANCED PREP: NONE**

As of January 1, 2018, the Office of the Inspector General requires all current MCPPO Designees to attend the *Recertification for Massachusetts Certified Public Purchasing Officials* two-day seminar to qualify for their MCPPO recertification. You will earn 14 credits by successfully attending this class. Designees are still required to earn a total of 25 credits every three years to be eligible for recertification. To maintain your MCPPO Designation, you must apply for recertification every three years.

**May 7 & 8, 2018**

**8:30 a.m. – 4:30 p.m.**

**MCPPO Classroom (group-live)**

**One Ashburton Place, Room 1306, Boston, MA 02108**

**June 4 & 5, 2018**

**8:30 a.m. – 4:30 p.m.**

**Pioneer Valley Planning Commission (group-live)**

**60 Congress Street, Floor 1, Springfield, MA 01104**

**June 11 & 12, 2018**

**8:30 a.m. – 4:30 p.m.**

**North Attleborough Police Station (group-live)**

**102 So. Washington Street, North Attleborough, MA 02760**



The Massachusetts Office of the Inspector General is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit.

Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: [www.NASBARegistry.org](http://www.NASBARegistry.org).

### Topics covered in this seminar include:

- Public purchasing principles
- Designer selection law
- Construction bid laws
- Chapter 30B review and updates
- Evaluation of bidder responsibility
- Effective contract administration
- Effective contract drafting
- Case studies

*This seminar includes an examination.*

You will earn 14 continuing professional education (CPE) credits and 14 professional development points (PDP) towards MCPPO recertification.

To register, please visit our website at [www.mass.gov/ig](http://www.mass.gov/ig). For additional information on the MCPPO Program or for information regarding refunds, complaints or program cancellations, please contact Joyce McEntee Emmett, MCPPO Director, at (617) 722-8835 or via email at [MA-IGO-Training@state.ma.us](mailto:MA-IGO-Training@state.ma.us).



**SUBSCRIPTION INFORMATION**

*The Office of the Inspector General publishes the Procurement Bulletin on a quarterly basis. There is no charge to subscribe.*

*To receive the Procurement Bulletin electronically, please send an email containing your first and last name to [MA-IGO-Training@state.ma.us](mailto:MA-IGO-Training@state.ma.us).*

*If you prefer to receive a printed copy via first-class mail, please indicate this in the email and provide your mailing address.*

*If you have any other questions, please contact (617) 727-9140.*

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