

Important Information from the OIG

Legislative Update

There are two pieces of legislation currently before the House Ways and Means Committee that, if passed, will streamline and update M.G.L. c.30B. To help ensure passage of these bills, we would encourage you to contact your local representatives to express your support.

House 4506 would amend M.G.L. c.30B to permit the use of the federal government's General Services Administration's (GSA) supply schedules that are already open for use by governmental bodies, and would permit advertising on a website instead of in a newspaper when procuring supplies and services costing \$25,000 or more. House number 4526 would also permit the use of the GSA contracts and would permit the use of reverse auctions. These amendments may provide cost savings to municipalities.

To find out who your elected officials are, as well as how to contact them, visit the Secretary of State's website at <http://www.wheredoivotema.com/bal/myelectioninfo.php>.

Save The Date! STAR 2010

The Inspector General's Office (OIG) will present a two-part workshop on *What's New? Local Use of State Contracts – State Procurement Law* in room 052 from 10:00 -11:15 a.m. at the 2010 STAR Statewide Training and Resources Exposition on May 4, 2010. In keeping with the theme of the Exposition – Keys to Procurement: Enhancing your Success – we will discuss what's new in local use of state contracts, including best practices recommendations, lessons learned, and a model contract form that can bring local users the same protections as state users. We will also discuss what's new in state procurement law; specifically vertical construction projects of less than \$5,000, the new M.G.L. c.30B exemption for architects, engineers, and related professionals (and recommendations for procuring those services) and energy conservation projects of \$100,000 or less.

The Massachusetts Certified Public Purchasing Official (MCPPO) program will have a booth. Please stop by and say hello! We will be available to answer any questions you may have about the MCPPO program. You can register for STAR at www.mass.gov/star.

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You will also be able to earn continuing education credits towards MCPPO recertification by attending STAR workshops. You are eligible to receive 1 MCPPO credit per 50 minute workshop. Please keep proof of attendance in order to submit it with your recertification application. For further information, including calculation of MCPPO credits, please visit our website at <http://www.mass.gov/ig/mcpo/contedu.htm>.

Beware of Vendors Bearing Gifts

The Ethics Commission recently approved a disposition agreement in which a school food services director admitted to violating the conflict of interest law when she accepted promotional merchandise for the school from a vendor for her own personal use. According to the agreement, a vendor offered promotions to its customers based on the type and quantity of product purchased through the vendor. The food services director applied, on behalf of the school, for the merchandise through the promotional program on two separate occasions. Each time she selected 3 iPods and kept them for her own personal use.

The food services director admitted to violating M.G.L. c.268A, §23(b)(2) which prohibits a municipal employee from knowingly, or with reason to know, using or attempting to use her official position to obtain for herself or others unwarranted privileges or exemptions of substantial value not available to similarly situated individuals. The Ethics Commission held that "by using her official position to make purchases from a vendor, and then keeping for her own personal use gifts received based on those purchases," the food services director "violated section 23(b)(2)." She paid a \$2,000 civil penalty and was required to make restitution to the school based on the value of the items that she took for her personal use.

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OIG Articles

Donating Surplus Supplies

In the wake of natural disasters, such as the severe earthquake that struck Haiti on January 12, 2010, it is common that the Office of the Inspector General receives questions regarding the donation of surplus supplies to non-profit agencies serving affected areas. While Chapter 30B permits the disposition of surplus supplies to certain charitable organizations, in most cases donations to a private non-profit are not allowed.

The steepest hurdle to overcome when attempting a donation of surplus supplies is the Massachusetts Constitution's Anti-aid amendment, Art.18, §§46 & 103. The Anti-aid amendment provides in relevant part as follows:

No grant, appropriation or use of public money or property or loan of credit shall be made or authorized by the Commonwealth or any political subdivision thereof for the purpose of founding, maintaining or aiding any infirmary, hospital, institution, primary or secondary school, or charitable or religious undertaking which is not publicly owned and under the exclusive control, order and supervision of public officers or public agents.

This amendment applies to both grants of public funds as well as donations of real or personal public property and is applicable to governmental bodies as political subdivisions of the Commonwealth. In a March, 2006 Department of Revenue advisory opinion, the Division of Local Services indicated that grants to private non-profit organizations for the purpose of supporting or assisting their operations are hard to justify under the Anti-aid amendment, no matter how worthy. The opinion is available at http://www.mass.gov/Ador/docs/dls/mflb/opinions/2006_75.pdf.

If your legal counsel had advised that such a donation of surplus supplies is lawful you must still comply with the procedures of M.G.L. c.30B, §15(g), which provides that "a governmental body may by majority vote, unless otherwise prohibited by law, dispose of surplus supplies no longer useful to a governmental body but having a resale or salvage value, at less than fair market value to a charitable organization which has received a tax exemption from the United States by reason of its charitable nature."

This section requires that you obtain the majority vote of your governing body (in the case of a regional school district the governing body is the school committee) and that you verify two things: that the organization that will receive the donation has been granted tax exempt status by the IRS, and that the reason for the tax exemption is based on the exempt entity's charitable nature. Accord-

ing to the IRS, an organization may receive a tax exemption under 26 USC §501(c)(3) based on a variety of charitable purposes, including "relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency."

In considering whether to donate to any 501(c)(3) non-profit pursuant to M.G.L. c.30B, §15, this Office recommends that you contact your legal counsel to ensure that your donation does not violate the Anti-aid amendment or any other applicable law.

Including Geographical Restrictions in Food Services Management Procurements May Violate Federal Law

It has come to this Office's attention that many school districts are requiring that food service management companies have a certain number of years of Massachusetts experience in order to be eligible for contract award. While this Office routinely recommends against any requirement that can limit competition without a sound business reason to do so, these requirements may also violate applicable federal law. Public school districts are required to use state and local procurement procedures in awarding food services management contracts so long as those procedures are consistent with federal requirements found at 7 C.F.R. §3016.36(b-i) and 7 C.F.R. §3016.60(b-c). Federal law specifically states that procurements must be conducted in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals. 7 C.F.R. §3016.36(c)(2). In order to ensure that your contract for food services management meets all federal requirements, and provides your school with the best possible price, your procurements should not contain requirements for Massachusetts experience.

Don't forget, a Chapter 30B attorney is available Monday through Friday from 9:00 am to 4:30 pm to answer any Chapter 30B questions you might have.

617-722-8838

Chapter 30B Questions and Answers

Q.1. I am a municipal official charged with disposing of surplus real property. In determining the value of the property as required by Chapter 30B, section 16(b), I hire an appraiser. Generally, I have the same appraiser conduct multiple appraisals throughout the year. Is the hiring of an appraiser subject to Chapter 30B?

A.1. Yes. Chapter 30B's jurisdiction includes the acquisition of services. "Services" is defined as "the furnishing of time, labor or effort by a contractor not involving a specific end product other than reports..." An appraiser furnishes an appraisal report and is therefore performing services subject to Chapter 30B. This Office recommends that you estimate the amount you expect to spend on appraisal services over the course of a year. The estimate could be based on a prior years' cost if the volume is expected to be the same. Then, you will determine which Chapter 30B process to implement.

For the procurement thresholds and required procedures please see our updated *Charts on Local Public Procurement Procedures*, available at http://www.mass.gov/ig/mcppo/charts_proc.pdf.

Q.2. I am the chief procurement officer (CPO) of a town. I allow each department head to conduct procurements of less than \$5,000, using sound business practices. Must I delegate authority for these purchases?

A.2. Yes. In jurisdictions that have appointed a CPO or have a purchasing agent that person must delegate authority to an employee you want to conduct procurements of any amount, including procurements of less than \$5,000. Chapter 30B states that the CPO is in charge of procuring all supplies and services for the governmental body. A CPO may delegate his or her authority to one or more employees of the governmental body. The delegation of authority is not effective unless a copy of the same has been received by this Office.

A form for delegation is available from the OIG website, and is entitled *Chief Procurement Officers Delegation of Procurement Powers and Duties*. Use of this form will ensure that all required information is provided. The form and instructions, along with the *Notice of Appointment of Chief Procurement Officer form*, are available at <http://www.mass.gov/ig/mcppo/cpoform.pdf>.

Q.3. I am the business manager of a school district that is applying for a grant from the federal Department of Education. The grant requires that we name the vendor that will conduct an analysis of our existing programs and oversee the spending of the grant on behalf of the school district. Is this a "grant agreement" and therefore not subject to Chapter 30B?

A.3. No. A grant agreement is defined as an agreement between a governmental body and an individual or non-profit entity the purpose of which is to carry out a public purpose of support or stimulation instead of procuring supplies or services for the benefit or use of the governmental body. In this instance, the vendor will be performing services for the school district (conducting an analysis of programs and administering grant funds), not providing direct support or stimulation to the public. Because you are required to name the individual in the grant application, when soliciting quotes, bids or proposals from interested vendors you must specifically state that the award of the contract is dependent on receiving the grant.

Q.4. Is it possible that administering grant funds or other grant-related consulting services would be exempt from M.G.L. c. 30B for another reason?

A.4. Yes. It is possible that the services would be exempt from Chapter 30B under one of the exemptions in Chapter 30B, section 1(b). For example, this Office is aware of certain governmental bodies contracting with the University of Massachusetts or regional planning commissions for consulting services in connection with grants. Chapter 30B, section 1(b)(4) exempts transactions with the commonwealth. Also, Chapter 30B, section 1(b)(9) exempts the procurement of services from any agency or instrumentality of the federal government, the commonwealth or any of its political subdivisions or any other state or political subdivision thereof.

Q.5. I am a CPO. My town recently adopted written procedures for disposing of surplus supplies valued at less than \$5,000. Our school department plans to raise revenue by disposing of certain surplus furniture. Specifically it is disposing of 46 round adjustable tables, 30 rectangular adjustable leg tables, 17 bookcases, and 700 student chairs. Based on the school department's past disposition of surplus school furniture in 2007 where a yard sale resulted in a net loss, I am assuming that M.G.L. c. 30B does not apply because the surplus furniture from the school had a zero, or negative net value. Have I done my due diligence in determining the applicable M.G.L. c. 30B procedures?

A.5. No. Chapter 30B requires that you determine the value of the surplus supplies you intend to dispose of. You have not determined the value of the items, but are instead considering the value of the items disposed of in 2007. Once you have determined the value of the items, you will determine the appropriate procurement procedure. For items with a value of \$5,000 or more, the governmental body shall offer the supply through competitive sealed bids, public auction, or established markets. [Chapter 30B, §15(b)]. For items with an estimated net value of less than \$5,000, the

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Chapter 30B Questions and Answers

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procurement officer disposes of the supply using written procedures approved by your jurisdiction's governing body. [Chapter 30B, §15(f)].

Q.6. The police department in my city wishes to dispose of surplus public safety vehicles. The police department would like to sell each vehicle individually and each vehicle has an estimated net value of less than \$5,000. However, my town does not have written procedures for the disposition of surplus supplies with an estimated net value of less than \$5,000. What do you recommend that we include in a written procedure that will be submitted to our governing body for approval?

A.6. Requesting a model set of written procedures from another jurisdiction may be helpful as a starting point, although you must check to ensure that the policy does not contain outdated information and complies with M.G.L. c. 30B. This office recommends that your procedures include the following information:

1. A definition of surplus supply and a process to declare an item surplus;
2. A process for valuing each item determined to be surplus;
3. The public notice requirements that will provide sufficient time to alert the public and interested parties; and
4. The rules relative to the eligibility of personnel and officials to participate in the process, which must be consistent with the conflict-of-interest law, M.G.L. c. 268A.

M.G.L. c. 149 Questions and Answers

Q.7. I am the procurement officer for a city and we are procuring a contract for plumbing services estimated to cost less than \$5,000. Now that M.G.L. c.149, §44A allows for the use of sound business practices for building construction contracts estimated to cost less than \$5,000, may I enter into a contract with a vendor on statewide contract FAC29 (Tradespersons-Repair and Maintenance Services)?

A. Yes. Procurements estimated to cost less than \$5,000 meet the requirements for M.G.L. c.149 and FAC29 when you:

- Use sound business practices;
- Make and keep a record that, at a minimum, includes the name and address of the person from whom the services were procured;
- Pay prevailing wages; and
- Furnish a payment bond in the amount of at least 50%, if required.

Please note that your local rules may dictate more rigorous procedures.

Important Information from the OIG, cont.

Beware of Vendors Bearing Gifts, continued from page 1.

While gifts are given to engender good feelings between two parties they may be detrimental to the objectivity required in awarding contracts. Accepting gifts may not be in the best interests of your jurisdiction. The Office's Recommended Code of Conduct for Public Employees, available at <http://www.mass.gov/ig/publ/code.htm>, prohibits the acceptance of any gifts, which is a safe policy to adopt. If your code of conduct does not prevent the acceptance of gifts, prior to accepting any gifts from any vendor it is important that you first determine that accepting such a gift would not be considered a conflict of interest. You can contact the State Ethics Commission by phone, (617) 371-9500 or (888) 485-4766, or online through its website, www.mass.gov/ethics.

MASBO/DESE Save the Drive Program: Presentations by the Massachusetts Office of the Inspector General

The Save the Drive program, an initiative of the Massachusetts Association of School Business Officials and the Department of Elementary and Secondary Education, is designed to offer school business officials timely information in an accessible format during their lunch hour through a web-conference presentation. Each presentation consists of a slide presentation and a live follow-up question and answer session, and thus school business officials "save the drive" to an off-site training program. Presentations are offered on Thursdays between 12:00 to 12:45 p.m. The Save the Drive program will host presentations by the Inspector General's Office on the following dates:

April 1. *Proprietary Specifications and Sole Source Procurements- Spending Wisely when Competition is Limited.* This presentation will help participants learn the rules of procuring supplies and services using proprietary specifications or conducting sole source procurements, and know what questions to ask before deciding to use either.

April 15. *Local Use of Statewide and Department Contracts: Best Practices.* This presentation will help participants understand the essentials of purchasing from a vendor on a statewide or department contract and avoid being snookered.

April 29. The ARRA (The American Recovery and Reinvestment Act of 2009): *An Overview of Fraud Indicators.* Learn how to identify when a procurement may be vulnerable to fraud.

Recent Publications, cont.

Inspector General's Investigation Leads to Plea Agreement with Whittier Regional Vocational-Technical School Employee, December 2009.

Joint investigative efforts between the Massachusetts Office of the Inspector General and the U.S. Department of Education, Office of the Inspector General, Investigation Services, resulted in Joseph Giordano, age 63, of Bradford, MA, pleading guilty to a single count of making a false statement (18 U.S.C. § 1001) to the federal government. The false statement relates to a scheme in which Giordano used his position, as the Coordinator of Community Education at Whittier Regional Vocational-Technical School ("Whittier"), to obtain funds provided to the school under federal grants. Giordano did this by creating a company, MDG Education which he controlled; Giordano approved invoices from MDG to Whittier for services relating to faculty enrichment courses. MDG was not a Whittier-approved vendor. The services supposedly provided by MDG were services that Giordano typically performed in the course of his usual duties for Whittier. Giordano, through MDG, billed Whittier at a higher rate than Whittier would have paid for faculty enrichment courses had there been no MDG involvement.

As part of a plea agreement with the federal government, Giordano has agreed to pay back \$15,049.00 that he wrongfully obtained, plus a \$10,000.00 fine. In addition, Giordano agreed to a three-year period of probation.

The report can be accessed at http://www.mass.gov/ig/publ/whittier_upd.htm.

Inspector General's Investigation Leads to Guilty Pleas in MBTA No-Show Case, January 2010.

Three former Massachusetts Bay Transportation Authority employees pled guilty in December 2009 to larceny and other charges that stemmed from a no-show jobs case initiated by the Inspector General and prosecuted by the Attorney General. The two-year investigation targeted the MBTA's Design and Construction Department, where all three men were paid to supervise outside contractors. The men were expected to be on-site daily to oversee construction progress and ensure that project specifications were met. The investigation discovered that the men falsely submitted timesheets claiming they were working in their MBTA positions when, in fact, they were elsewhere. One employee pled guilty to two counts of Presentation of False Claims and two counts of Larceny over \$250. He was sentenced to two-and-a-half years in the House of Correction, one year to serve with the balance suspended for two years, two years concurrent probation and a \$10,000 fine. The other two employees each pled

guilty to a single count of Presentation of False Claims and Larceny over \$250.

They were each sentenced to two years in the House of Corrections, suspended for one year, two years concurrent probation and 200 hours of community service.

The report can be accessed at http://www.mass.gov/ig/publ/mbta_case_upd.htm.

Inspector General's Investigation of Boston Fire Department Accidental Disability Pension Fraud Update, February 2010.

A joint investigation conducted by the Massachusetts Office of the Inspector General, the Federal Bureau of Investigation, the Boston Police Department and the U.S. Attorney's Office resulted in two former Boston firefighters being indicted by a Federal Grand Jury on October 20, 2009 on mail fraud charges involving their applications for accidental disability pensions. In addition a clerk in the Boston Fire Department was indicted by a Federal Grand Jury on October 20, 2009 and charged with perjuring herself and obstructing the grand jury investigation in this matter.

The clerk entered a guilty plea on December 16, 2009 and admitted that she made material false statements while testifying under oath before a federal grand jury and obstructed justice in connection with the grand jury's investigation. On March 16, 2010, she was sentenced to two years of probation and 200 hours of community service for perjuring herself and obstructing the grand jury investigation.

The report can be accessed at http://www.mass.gov/ig/publ/boston_ff_pension_upd.htm.

Resources Regarding Vendor Debarment

State law provides that no department shall knowingly accept a response from or award a contract to any contractor or approve a subcontract to any party currently subject to a state or federal debarment order or determination. The following websites contain lists of businesses that have been debarred :

- <https://www.epls.gov/>
- <http://www.mass.gov/Eoaf/docs/dcam/dlforms/debarred.pdf>
- http://www.mass.gov/Elwd/docs/dia/investigations/debarment_list.xls

In addition to the above sites, the Fair Labor Division of the Office of the Attorney General may also debar vendors. Such debarred vendors are listed in the Secretary of State's *Central Register*.



MASSACHUSETTS CERTIFIED PUBLIC PURCHASING OFFICIAL PROGRAM REGISTRATION FORM January—June 2010

Office of the Inspector General
Gregory W. Sullivan, Inspector General
MCPPO@maoig.net Fax: (617) 723-2334

REGISTRATION INFORMATION:
All seminars will be confirmed based on a minimum of 20 participants.

GOVERNMENT/NON-PROFIT COURSE PRICE:

Government employees shall include all employees of the commonwealth, employees of the commonwealth's political subdivisions, employees of other state governments, employees of the federal government and employees of any other municipality, county, or local district. Non-Profit employees include any employee of a 501 (c)(3) corporation. Proof of non-profit status must be provided with registration.

Register/ Reserve Seating:

To reserve seating, fax registration and purchase order to (617-723-2334).

MAIL ORIGINAL TO:

Commonwealth of Massachusetts
Office of the Inspector General
One Ashburton Place, Rm. 1311
Boston, MA 02108

ATTN: MCPPO Program

MAKE CHECK PAYABLE TO: OIG

SUBSTITUTIONS / CANCELLATIONS:

Each seminar is limited and filled on a space available basis. No refunds for cancellations. Registration transfer to someone in your organization is possible with prior notice. The OIG reserves the right to cancel/reschedule any seminar and is not responsible for any costs incurred by registrants. Terms and conditions may change without notice. Alternate course dates may be substituted in the event of an emergency, upon notification. **NO-SHOWS or LATE CANCELLATIONS will be invoiced a \$100.00 service charge**

For more information regarding administrative policies, such as complaint and refund resolution, please email Joyce McEntee Emmett, Director of the MCPPO Program at MCPPO@maoig.net or go to our website at www.mass.gov/ig.

PUBLIC CONTRACTING OVERVIEW

No Prerequisite

- February 10, 11, 12—2010
- March 9, 10, 11—2010
- June 8, 9, 10—2010

3-day seminar

Tuition: \$450 for government/non-profit employees
\$700 for all others

BOSTON April 27, 28, 29—2010 **BOSTON**
BOSTON April 27, 28, 29—2010 **HUNTINGTON NEW**
BOSTON *Video Conference hosted by Gateway RSD*
Limited seats available

SUPPLIES & SERVICES CONTRACTING

Prerequisite: Public Contracting Overview or Charter School Procurement

- January 26, 27, 28—2010
- March 2, 3, 4—2010

3-day seminar

Tuition: \$450 for government/non-profit employees
\$700 for all others

BOSTON May 11, 12, 13—2010 **BOSTON**
BOSTON

DESIGN & CONSTRUCTION CONTRACTING

Prerequisite: Public Contracting Overview or Charter School Procurement

- February 24, 25, 26—2010
- April 6, 7, 8—2010

3-day seminar

Tuition: \$650 for government/non-profit employees
\$900 for all others

BOSTON May 18, 19, 20—2010 **BOSTON**
BOSTON June 14, 15, 16—2010 **BOSTON**

ADVANCED TOPICS UPDATE

- April 14 & 15—2010

2-day seminar

Tuition: \$350 for government/non-profit employees
\$600 for all others

BOSTON

CERTIFICATION for School Project Designers & Owner's Project Managers

- March 24, 25, 31 & April 1—2010
- May 26, 27 & June 2, 3—2010

4-Day Training

Tuition: \$1200 –Private Sector

BOSTON
BOSTON

CONSTRUCTION MANAGEMENT AT RISK

Under M.G.L. c. 149A: Legal Requirements & Practical Issues

**Introductory material geared to procurement officials who are not construction experts*

- March 18—2010

1-day seminar

Tuition: \$275 for government/non-profit employees
\$600 for all others

BOSTON May 6—2010 **BOSTON**

CHARTER SCHOOL PROCUREMENT

No Prerequisite

- FALL 2010 *To be announced*

2-day seminar

Tuition: \$400 for government/non-profit employees
\$600 for all others

BOSTON

Drafting A Model IFB

Self-paced

Tuition: \$75 ea. for govt./non-profit employees

POLICY OF NON-DISCRIMINATION:

The Commonwealth of Massachusetts Office of the Inspector General does not discriminate on the basis of race, color, national origin, ancestry, religion, sex, age, disability, sexual orientation, political affiliation, or Vietnam-era or disabled veteran status in its employment, admission policies, or in the administration or operation of, or access to its programs and policies. The Office of the Inspector General does not discriminate on the basis of disability in violation of Section 504 of the Rehabilitation Act of 1973. Inquiries pertaining to the Office's non-discrimination policy for MCPPO programs may be addressed to Joyce McEntee Emmett, Program Director, at 617-727-9140.



The Commonwealth of 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 addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417, www.nasba.org. Web site: www.nasba.org



The Commonwealth of Massachusetts Office of the Inspector General is registered with the Department of Education to award professional development points (PDP).

Payment Method : CHECK/M.O. PURCHASE ORDER # I E/ITA

NAME: _____ TITLE: _____

PHONE: _____ FAX: _____ E-MAIL: _____

ORGANIZATION/JURISDICTION: _____

ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____

Do you need special accommodations? _____

ARRA

American Recovery and Reinvestment Act

Introduction

This section of the *Procurement Bulletin* will focus on matters pertaining to American Recovery and Reinvestment Act (ARRA) funds. It will serve as an information source for issues, questions, guidelines and deadlines concerning ARRA. For more information on ARRA, visit our website at: www.mass.gov/ig

What's the Difference Between a Prime and Subrecipient of ARRA Funds?

A prime recipient is a non-federal entity that is awarded ARRA funding directly from the federal government in the form of a grant, contract, or loan. A subrecipient is a non-federal entity that is awarded ARRA funding from a prime recipient to support the project or program for which the prime recipient was awarded the funds.

For more commonly used terms under ARRA, visit: <http://www.recovery.gov/FAQ/Pages/glossaryHome.aspx>

30B Delegations

All ARRA recipients must remember that the use of ARRA funds is generally subject to all state procurement rules, including Chapter 30B, the law applying to the procurement of supplies and services by governmental bodies. Chapter 30B permits governmental bodies to appoint a chief procurement officer (CPO), and requires that a CPO be appointed prior to using the RFP process. The CPO is in charge of procuring all supplies and services for the governmental body unless he or she has delegated authority for the procurement. Delegations of authority must be received by the Massachusetts Office of the Inspector General (OIG) in order to be effective. Whether or not you have a CPO, if you are procuring any supplies or services pursuant to Chapter 30B, you must ensure that you have the proper authority to do so.

For more information on the CPO and for a delegation form, please see our "Chapter 30B Manual": <http://www.mass.gov/ig/publ/30bmanl.pdf>.

"Right to Audit" Reminder

All local procurement officials must remember that all contracts should make clear that any responsible oversight agency or auditor has the right to audit and review records related to a contract. The "Right to Audit" also extends to any subcontractor, supplier, or other entity that the prime contractor used to fulfill contractual obligations.

Spending Stimulus Funds: Know the Rules

It can't be said often enough – if your jurisdiction is receiving stimulus funds under ARRA, then you must be aware of the "rules of the game" for the use of these funds. You need to understand the required terms and conditions for the funding. These terms and conditions may include new reporting and record keeping requirements as well as changes to how and when these funds can be expended. You also must adhere to applicable procurement rules. Unless there is specific federal guidance concerning what procurement rules to follow, then follow all applicable state and local rules.

All ARRA funds are subject to additional scrutiny by state and federal oversight agencies, including the OIG. Any ARRA review conducted by the OIG will include a review of whether applicable procurement rules have been followed. We recommend that the CPO or purchasing agent overseeing a centralized purchasing system carefully monitor procurements throughout a jurisdiction, including procurements by department officials with delegated authority to procure on their department's behalf. For example, where a fire or police chief has been delegated authority to purchase, the CPO should ensure that all ARRA requirements and applicable procurement rules are followed. Where a municipality has a decentralized purchasing system, i.e. each department procures its own goods and services, we recommend that the department head seek guidance from legal counsel or the municipal accountant or auditor to ensure that any procurement is completed in accordance with applicable ARRA rules.

The OIG is available to assist if you have questions or concerns about procurement procedures or transactions, whether or not ARRA funds are involved.

Confidential Fraud Hotline:

Please don't hesitate to use the OIG hotline (800)322-1323 to report any waste, fraud, or abuse of ARRA funds. All calls are confidential. For general questions about ARRA spending call (617) 727-9140.

Notice:

Next ARRA reporting period is April 1-10, 2010.

Procurement Bulletin **Subscription Information**

The *Procurement Bulletin* is published on a quarterly basis by the Massachusetts Office of the Inspector General. There is no charge to subscribe. To receive the *Procurement Bulletin* via e-mail, please send an e-mail containing your first and last name, along with your e-mail address, to Patty Callahan at callahanpa@maoig.net. To receive a paper copy via mail, please fax your mailing address to Patty Callahan at 617-723-2334.

If you previously subscribed to the *Procurement Bulletin* and have not received a copy, please contact Patty Callahan by phone at (617)727-9140.

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