

Procurement Bulletin

Dear Public Officials,

As this is the first *Procurement Bulletin* published since I began my term as Inspector General, I would like to take this opportunity to introduce myself and remind you of some of the excellent resources this Office provides.

Prior to my appointment as Inspector General this August, I served as Managing Attorney and Chief of the Insurance & Unemployment Fraud Division for the Criminal Bureau at the Attorney General's Office, where I supervised the investigation and prosecution of procurement fraud, public corruption, employee theft and other matters. Before that, I worked as an Assistant District Attorney at the Suffolk County District Attorney's Office, where I prosecuted a variety of cases, supervised prosecutors and investigators, and trained new attorneys. Prior to becoming a lawyer, I worked in sales and marketing at PrimaCare Health Resources and Baxter International. I hold a BA in Economics from Boston College, an MBA from Bentley University Graduate School of Management and a JD from Suffolk University Law School.

This Office offers valuable resources to assist local and state officials. Foremost, two procurement manuals are available: [The Chapter 30B Manual](#), which provides a step-by-step guide for the procurement of supplies and services, the disposition of supplies, and the acquisition and disposition of real property; and [Designing and Constructing Public Facilities](#), which provides a step-by-step guide for procuring building and public works design and construction contracts. These manuals can be purchased from the State Bookstore or downloaded from our website at <http://www.mass.gov/ig/publications/manuals/>.

Our website also contains a number of other guides and reports, but I would specifically like to draw your attention to the archive of previously published *Procurement Bulletin* articles available at <http://www.mass.gov/ig/publications/procurement-bulletins>. Each *Procurement Bulletin* contains a "Frequently Asked Questions" section where you may find that your procurement questions have already been asked and answered in a clear and concise manner. When you cannot find the answer to your question in one of the manuals or on the website, please call the Chapter 30B Procurement Assistance Helpline at (617) 722-8838 and an Office staff member will be available to offer further assistance.

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I also would like to highlight the extensive educational programs this Office provides, from the free online "Bidding Basics" course to the Massachusetts Certified Public Purchasing Official (MCPPO) program, which offers training on a variety of procurement topics. Please find the 2012 MCPPO schedule enclosed. You can also learn more about the MCPPO program on our website, at <http://www.mass.gov/ig/mcpo/>. Over time, we will expand, update and improve these resources to make them as useful and user-friendly as possible. Congratulations to those public officials that have recently been designated as Massachusetts Certified Public Purchasing Officials. A listing of the designations can be found on page seven of this bulletin.

Also, please welcome our new attorneys, Associate General Counsel Omar Gonzalez-Pagan and Senior Counsel Audrey Mark.

Thank you all for your efforts on behalf of the municipalities of the Commonwealth. I look forward to working with you in the future.

Sincerely,



Glenn A. Cunha,
Inspector General

New 18th Filed Sub-bid Category for Fire Protection Sprinkler System

Mass. Act 237 of 2012, *An Act Relative to Renovation and Repair Contracts*, adds an 18th filed sub-bid category to M.G.L. c. 149, § 44F, for a “fire protection sprinkler system as defined in section 81 of chapter 146.” Section 81 defines a fire protection sprinkler system as “a fire sprinkler system, for fire protection purposes, the work of the sprinkler fitter and apprentice shall consist of the installation of all fire protection and fire control systems, including both overhead and underground water mains, fire hydrants and hydrant mains, standpipes and hose connections to sprinkler systems, sprinkler tank heaters, air lines and thermal systems, hot water fire protection systems and standpipes connected to sprinkler systems.” Please consider this in the future when procuring public construction projects.

OSD “Contract User Guides”

The Operational Services Division (OSD) is responsible for awarding a variety of statewide contracts that local jurisdictions may use without conducting a separate Chapter 30B procurement process. To use OSD statewide contracts, however, you must comply with the contract terms and conditions.

To ensure that you comply with the terms and conditions for purchasing from OSD contracts, the OIG advises that you verify with OSD the rules for using each contract. OSD has a new document known as the “Contract User Guide” (previously known as the “OSD Update”) to which you should refer for guidance on how to use a contract and to learn about any changes or updates. The Contract User Guide is available under the “Forms and Terms” tab of certain contracts on Comm-PASS. If you have additional questions about what is allowed under a contract after reviewing the Contract User Guide, be sure to contact the OSD contract manager.

The OIG also recommends that if you use a statewide contract, you execute your own contract with the statewide contract vendor. The OIG developed a model purchase order form that can be used as a contract, which is available at www.mass.gov/ig/publications/forms.

MCPPO Video Casts to Huntington, MA

Since December of 2009, the OIG has incorporated video conferencing into the MCPPO program, simplifying the ability to attend the MCPPO training seminars for those with travel and/or personnel constraints. Currently, certain MCPPO training classes are video cast to the Gateway Regional School District in Huntington, Massachusetts. To avoid a trip to Boston, folks may choose to attend MCPPO classes at the Gateway Regional School. We have successfully video cast 20 classes in Huntington, training an estimated 350 students there.

We hope to expand our video casting locations to other parts of Massachusetts in the future.

Hiring Certified Public Accountants — Best Practices

Obtaining the services of a certified public accountant (CPA) to conduct an audit of your jurisdiction or perform other accounting services is exempt from the competitive requirements of Chapter 30B. [M.G.L. c. 30B, § 15] In general, CPAs have gone through extensive training, have met testing requirements and are expected to be impartial. However, if your jurisdiction uses the same CPA for many years in a row, the CPA's impartiality may be compromised.

It recently came to our attention that a public entity had used the same CPA for many consecutive years. The representative of the jurisdiction tasked with facilitating the entity's annual audit developed a relationship with the CPA. Instead of the CPA being provided access to requisite staff to conduct random audit samplings, the CPA relied on information provided by only one entity representative. The CPA, by relying on information provided by only one person, missed signs of possible issues with the entity's accounting practices. Those issues came to light only after unrelated circumstances caused the public entity to contract with a new CPA firm to complete an audit. The financial implications were extensive and are still being resolved.

In sum, the Office recommends that you do not use the same CPA year after year. We suggest that you rotate CPAs on a three-year or five-year cycle. In addition, as a best practice, we also recommend that you use a fair and open process to obtain price quotes or bids from qualified CPAs to ensure a high level of service at a favorable price. Using such a rotation should result in a CPA who will conduct an independent audit that is responsibly prepared and that will provide meaningful information to your jurisdiction. Further, this advice is applicable to many other services, for example engineering, broker or legal, where you may have been using the same individual or firm for many years. In such cases, we similarly recommend that you periodically conduct an assessment of the quality of the work and determine whether the fees are competitive.

CPO Delegation Forms

Pursuant to M.G.L. c. 30B, § 19, a Chief Procurement Officer (CPO) may delegate purchasing authority to an employee in his or her jurisdiction. The CPO must send a completed delegation form to this Office. The form can be found on our website at <http://www.mass.gov/ig/publications/forms>. The delegation, amendment or revocation of purchasing authority will not take effect until a copy of this form has been filed with our Office. Remember that the delegation pertains to the position, such as "Superintendent of Schools," rather than to the person holding the position. A delegation may grant broad purchasing authority or be limited to a specific procurement or project. The delegation will remain in effect until amended or revoked, unless it includes an expiration date. For those of you who have previously filed delegations, please review and ensure that the information contained is up to date.

Education Collaboratives and Special Education Transportation Services

In a retrospective review, available on the OIG website at www.mass.gov/ig/publications/reports-and-recommendations/2012, the Office of the Inspector General (OIG) analyzed the Greater Lawrence Educational Collaborative's (GLEC) reported overcharging for special education (SPED) transportation services. Under M.G.L. c. 40, § 4E, school districts are authorized to form educational collaboratives to increase efficiency through joint purchasing, cost and resource sharing, and other initiatives. The review found, however, that GLEC's overcharges resulted in school districts paying more than necessary for SPED transportation services. The OIG also found a lack of adequate contracting and recordkeeping practices at GLEC and what appeared to be the setting of arbitrary SPED transportation rates, which contributed to overpayment by school districts.

Special education transportation services generally are exempt from the competitive solicitation requirements of M.G.L. c. 30B. As such, districts and collaboratives have great latitude in how they obtain these services. This latitude creates significant vulnerability to fraud, waste and abuse in the procurement and operations of these services. The OIG highly recommends, despite the procurement exemption, that school districts competitively procure SPED transportation services through fair and open bidding processes. Districts should not rely on undocumented processes, arbitrary pricing schemes, and haphazard invoicing when trying to obtain the best value for taxpayers and the best services for students with special needs.

Based on the review, the OIG's recommendations included the following:

- The GLEC Board of Directors should review its contract practices with member districts to ensure complete accountability and transparency.
- The Board should ensure that services provided by the collaborative are truly cost effective and benefit member districts to the fullest extent possible financially and operationally.
- The Board should ensure that other GLEC services are cost effective and relate to the actual cost of providing the service.
- The Board should require detailed invoices be provided to school districts to make cost verification or an audit possible.

To its credit, new management at GLEC has made significant improvements to GLEC business practices. In fact, through a bid process, a consortium of educational collaboratives (including GLEC) and school districts chose a new vendor to provide SPED transportation services to a broader network. Many of GLEC's member districts are part of this consortium and should benefit from the new contract.

The form and operation of educational collaboratives has been an ongoing concern for many constituencies. The Department of Elementary and Secondary Education (DESE) has proposed regulations relating to educational collaboratives. If you wish to comment on the proposed regulations, you may do so through November 7, 2012. See <http://www.doe.mass.edu/lawsregs/> for more information.

Real Property FAQs

Q1. What are the advertising requirements for the acquisition or disposition of real property?

A1. You must advertise for proposals in a newspaper with a circulation sufficient to inform the people of the affected locality.

- The advertisement must:
 - Be published at least once a week for at least two consecutive weeks before the date set for opening proposals, the last of which must occur at least eight days before the proposal opening.
 - Specify the geographical area, terms and conditions of the proposed transaction, the time and place for submission of proposals and awarding the contract, and where and when proposers may obtain a copy of the solicitation
- If the proposed disposition involves more than 2,500 square feet, an advertisement must also be published in the *Central Register* at least 30 days before opening of proposals.

Q2. Does M.G.L. c. 30B require majority vote approval for real property leases having a duration longer than three years, as it does for supplies and services?

A2. No. Chapter 30B does not limit the duration of real property contracts. However, other laws may place a limit on the duration of such contracts. Your town counsel or city solicitor can provide further advice on this area of the law.

Q3. Our town would like to transfer property to our housing authority. Is this transaction exempt from M.G.L. c. 30B?

A3. Yes. A transfer of property between agencies, boards, commissions, authorities, departments or public instrumentalities of one city or town are exempt from M.G.L. c. 30B under section (1)(b)(7) of M.G.L. c. 30B.

Q4. Our town wants to use Community Preservation Act (CPA) funds to support affordable housing. Our "Municipal Affordable Housing Trust Fund" purchased and renovated a single-family home. We plan to conduct a lottery to sell the house to an eligible person. Do we need to advertise in accordance with Chapter 30B?

A4. Yes. A "Municipal Affordable Housing Trust Fund" created under M.G.L. c. 44, § 55C(j), is "...a board of the city or town for purposes of chapter 30B and section 15A of chapter 40." The Trust must comply with all Chapter 30B requirements regarding the sale of real property, including:

- Advertising the sale, auction or lottery of the property; and
- If the proposed disposition involves more than 2,500 square feet, an advertisement must also be published in the *Central Register* at least 30 days before opening of proposals.

Note, because your jurisdiction will most likely be selling the property at less than fair market value you also must publish a notice in the *Central Register* after the sale that explains the reasons for the decision and discloses the differences between market value and the price to be received. Additionally, whenever your jurisdiction sells real property, the selected buyer must file a disclosure of beneficial interest form with the Commissioner of the Division of Capital Asset Management (DCAM).

(Continued on page 6)

(Continued from page 5)

Q5. Must I require the separation of price and non-price proposals?

A5. No. Unlike Chapter 30B RFPs for supplies and services, you need not require separate submissions of price and non-price proposals. Remember that real property proposals are not confidential after they are opened.

Q6. My town is selling a parcel of land valued at \$20,000 that is over 2,500 square feet. Must we advertise in the *Central Register* 30 days before the sale?

A6. No. Chapter 30B does not require advertising for proposals prior to entering into a contract to sell real property that is valued at less than \$25,000. However, if your jurisdiction decides to dispose of real property at a price less than market value, a notice of that decision must be published in the *Central Register*. The notice must explain the reasons for the decision and disclose the difference between market value and the price to be received. Additionally, whenever your jurisdiction sells real property, the selected buyer's disclosure of beneficial interest form must also be completed and filed with the Commissioner of the state Division of Capital Asset Management.

An Office staff member is available Monday through Friday from 9:00 a.m. to 4:30 p.m. to answer any Chapter 30B questions you have.

617-722-8838

MCPPO Designations

The following is a list of the MCPPO Program's new designees on applications **reviewed (not received)** between June 7, 2012 and October 26, 2012:

MCPPO

Kendra L. Amaral, City of Lowell
Ted Avlas, Webster Public Schools
Tracy Blais, Town of Newbury
Debra A. Blanchard, Athol Public Library
Robert L. Desmarais, Town of Amesbury
Silvio Genao, Town of Barnstable DPW
Jeffrey R. Gomes, MA DOT
Kimberly A. Hood, Town of Northborough
Clare L. Jeannotte, Boxborough Public Schools
Tanya M. Jenkins-Bandar, Town of Danvers
Carys A. Lustig, Town of Needham DPW
Barbara A. Martin, Chelsea Public Schools
Richard J. Mathieu, Oxford Public Schools
Susan V. McCarthy, MHEC/UMASS Amherst
Eileen B. McHugh, MA DOER
Jennifer L. Pacheco, UMASS Dartmouth
Joel M. Perry, UMASS Medical School
Lindsay B. Pope-Dahlberg, Town of Lexington
Anna M. Sanchez, UMASS Medical School
Mirella V. Santucci, Needham Public Schools
Judith A. Smith, Town of Danvers
Liana Surdut, Town of Orleans
Amelia C. Tierney, Martha's Vineyard RHS
Kim R. Trillcott Caporale, City of Quincy
Melissa J. Walker, Northbridge Public Schools
Donna M. Walsh, MA EO Health & Human Svcs.
David J. White, Southborough Public Schools

MCPPO for Supplies & Services

Mary G. Baronas, Hampshire Cty. Retirement
Michael F. DiPietro, Town of Wayland
Sheetal Reubens, Town of Tisbury
Wayne M. Yee Mon, Bromley-Heath TMC

MCPPO for Design & Construction

Michael J. Donovan, City of Lynn
Jeremy T. Marsette, Town of Framingham

Associate MCPPO

David T. Daltorio, Town of Hopkinton
Courtney M. Friedland, Town of Webster
Danielle M. Gariepy, Ashland Public Schools
Nicole J. LeBlanc, Worcester State University
Nadine Britto Rodriguez, UMASS Dartmouth

Associate MCPPO for Supplies and Services

Elizabeth Sugrue, Hampshire Cty. Retirement



MASSACHUSETTS CERTIFIED PUBLIC PURCHASING OFFICIAL PROGRAM
REGISTRATION FORM July-December 2012

Happy 15th Anniversary
1997-2012

Office of the Inspector General
Glenn A. Cunha, Inspector General
MCPPO@maoig.net Tel: 617.727.9140 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.

Register/ Reserve Seating:

To reserve seating, fax or email 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.

NO-SHOWS will be invoiced a \$100 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

3-day seminar

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

No Prerequisite

September 11, 12, 13-2012 BOSTON FULL

October 24, 25, 26-2012 BOSTON FULL

September 11, 12, 13-2012* HUNTINGTON FULL

*Video Conference hosted by Gateway RSD

SUPPLIES & SERVICES CONTRACTING

3-day seminar

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

Prerequisite: Public Contracting Overview or Charter School Procurement

September 18, 19, 20-2012 BOSTON FULL

October 31, November 1 & 2-2012 BOSTON FULL

October 31, November 1 & 2-2012* HUNTINGTON

*Video Conference hosted by Gateway RSD

DESIGN & CONSTRUCTION CONTRACTING

3-day seminar

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

Prerequisite: Public Contracting Overview or Charter School Procurement

September 25, 26, 27-2012 BOSTON FULL

November 6, 7, 8-2012 BOSTON FULL

September 25, 26, 27-2012* HUNTINGTON

*Video Conference hosted by Gateway RSD

ADVANCED TOPICS UPDATE

2-day seminar

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

November 14 & 15-2012 BOSTON

BOSTON

November 14 & 15-2012* HUNTINGTON

HUNTINGTON

*Video Conference hosted by Gateway RSD

CERTIFICATION for School Project Designers & Owner's Project Managers

4-Day Training

Tuition: \$1200 for private sector

October 10, 11 & 17, 18-2012 BOSTON

BOSTON

November 28, 29 & December 5, 6-2012 BOSTON

BOSTON

RECERTIFICATION for School Project Designers & Owner's Project Managers

1-Day Training

Tuition: \$600 for private sector

October 2-2012 BOSTON

BOSTON

November 27-2012 BOSTON

BOSTON

CONSTRUCTION MANAGEMENT AT RISK

1-day seminar

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

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

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

October 4-2012 BOSTON

BOSTON

CHARTER SCHOOL PROCUREMENT

2-day seminar

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

No Prerequisite

December 11 & 12-2012 BOSTON

BOSTON

Drafting A Model IFB

Self-paced

Tuition: *\$75 ea. for govt./non-profit employees \$200 for all others

Disk program requiring Microsoft Word 7.0 or higher

*Registration for this course must be accompanied by a check

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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.



The Commonwealth of Massachusetts Office of the Inspector General is registered with the Department of Elementary & Secondary 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:

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