

Dear Public Officials,

I am happy to announce the completion of the office's online training course, *Bidding Basics: M.G.L. c.30B (Bidding Basics)*. Now you can access no cost M.G.L. c.30B training from your desktop. This course covers the legal requirements for the procurement of contracts by local jurisdictions for supplies, services and real property under M.G.L. c.30B. *Bidding Basics* can be used in many ways, including as a refresher for staff who do not interpret the law every day, as a foundation for new hires, or as a quick review. The details of how to access the training are included on this page.

In order to ensure that our most requested procurement guidance remain relevant and helpful, we have updated the *Charts on Local Public Procurement Procedures* relative to the recent changes in the Municipal Relief Act. The updated Charts can be accessed at

[http://www.mass.gov/ig/mcppo/charts\\_proc.pdf](http://www.mass.gov/ig/mcppo/charts_proc.pdf). We also are in the process of updating the "Chapter 30B Manual." We will let you know through our website as soon as the Chapter 30B Manual update has been completed.

Sincerely,



Gregory W. Sullivan  
Inspector General

### Introducing our No Cost Online Training Course: **Bidding Basics: M.G.L. c.30B**

This online training covers the legal requirements for the procurement of contracts by local jurisdictions for supplies, services and real property under M.G.L. c.30B. The course takes approximately 2-3 hours to complete. It has been designed to be completed through PACE, the Commonwealth's web-based Learning Management System (LMS). PACE should be accessible to any entity with an Internet connection. Upon registering with this Office, you will be issued a PACE Login ID and Password so you may access the system for free. If you are unable to access the course through the Internet, the course is also available on a compact disc (CD) for a \$15 fee. You may earn 2 MCPPPO recertification credits upon completion of this course.

The registration form for both the online course and the CD can be accessed at [www.mass.gov/ig/mcppo/bb\\_online\\_regform.doc](http://www.mass.gov/ig/mcppo/bb_online_regform.doc). Please call Liz Powers, 617-722-8814 if you have any questions about accessing the course and to let us know if this training is useful. We look forward to hearing from you.

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### OIG Articles

#### CHANGES IN THE MUNICIPAL RELIEF BILL AFFECT MUNICIPAL PROCUREMENTS

On July 27, 2010, Governor Deval Patrick signed into law Chapter 188 of the Acts of 2010, An Act Relative to Municipal Relief (Act). The Act includes changes to the law that will affect municipal procurements of supplies, services and real property, as well as public construction. The Act went into effect the day it was signed.

#### M.G.L. c.30B, §1

M.G.L. c.30B, §1(b)(1), which exempts contracts subject to the public construction laws, was amended to clarify that contracts subject to M.G.L. c.25A, §11C are also exempt. Section 11C provides for an alternative procurement process for contracts for energy management services.

M.G.L. c.30B, §1(b)(4), which exempts contracts with the commonwealth, was amended to clarify that dispositions of real property to the commonwealth are subject to M.G.L. c.30B, §§16(a) (b) and (g). That is, 1) the property must be declared available for disposition, specifying any reusing restrictions 2) valued in accordance with procedures accepted by the appraising profession as valid, and, 3) if the property is disposed of for less than the fair market value, the reason and the difference between the fair market value and the price to be received must be published in the *Central Register*.

The Act added a new section, M.G.L. c.30B, §1(f), that will now permit local governmental bodies to purchase goods and services specified under General Services Administration (GSA) federal supply schedules that are available for

## OIG Articles, cont.

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use by local governmental bodies from authorized GSA vendors without a M.G.L. c.30B process. It is important to note that this section permits local governmental bodies to purchase supplies and services and does not apply to construction and construction materials estimated to cost \$10,000 or more. Contracts for construction and construction materials estimated to cost less than \$10,000 require the use of sound business practices. (See below).

### M.G.L. c.30B, §2

Chapter 30B was amended to incorporate a definition for the term “sound business practices.” “Sound business practices” is defined as “ensuring the receipt of a favorable price by periodically soliciting price lists or quotes.” While the definition does not require a formal competitive process for small procurements of less than \$5,000, it requires governmental bodies to ensure that they have received the needed quality of supplies and services at a reasonable price.

Many new definitions were added to M.G.L. c.30B, §2 relative to the two new M.G.L. c.30B sections, M.G.L. c.30B, §6A and M.G.L. c.30B, §22. (See below).

### M.G.L. c.30B, §4

M.G.L. c.30B, §4(d), was amended to provide that local governmental bodies may award contracts for local agricultural products costing less than \$25,000 using sound business practices. The local governmental body must ensure that the local agricultural product received is of the needed quality and that the price is reasonable as determined through the use of sound business practices. The sound business practices language replaces the former generally accepted business practices language. Additionally, Chapter 197 of the Acts of 2010 clarified that the \$25,000 limit applies on a per contract basis and not to all procurements of local agricultural products over the course of one year. This is consistent with the Office’s opinion that, when there is a sound business reason to do so, small frequent purchases of produce do not constitute bid splitting.

### M.G.L. c.30B, §6A

The Act inserts a new section, M.G.L. c.30B, §6A, which permits a chief procurement officer to utilize a reverse auction process for the acquisition of supplies and services valued at \$25,000 or more. A reverse auction is an internet-based process that allows sellers to anonymously bid against each other until the auction time expires. While in a traditional auction a bidder would submit a higher bid than the last bid received, bidders in a reverse auction would submit a lower bid than the last bid received, thereby driving prices down.

Procurements utilizing reverse auctions will still be subject to most traditional bidding requirements. More information on reverse auctions, including best practices for their use, is included on page 4 of this issue.

### M.G.L. c.30B, §22

The Act added a new section in M.G.L. c.30B, M.G.L. c.30B, §22, which permits intergovernmental cooperative purchasing. The Act permits local governmental bodies subject to M.G.L. c.30B to purchase supplies from contracts that have already been procured by the federal government, another state, a political subdivision (city, town, county, etc.) and units thereof, of the commonwealth or any other state, so long as the contract is open to Massachusetts governmental bodies and was procured in a manner that constitutes fair and open competition. Additionally, local governmental bodies subject to M.G.L. c.30B may conduct or sponsor such cooperative procurements. It is important to note that this section permits local governmental bodies to purchase supplies through intergovernmental cooperative purchasing and does not apply to the purchase of construction and construction materials estimated to cost \$10,000 or more. Contracts for construction and construction materials estimated to cost less than \$10,000 require the use of sound business practices. (See below.) more information on cooperative purchasing is included on page 3 of this issue.

### M.G.L. c.40, §3

M.G.L. c.40, §3 was amended to increase the number of years a town, through its selectmen, may let or lease real property to 30 years. Previously the limit was ten years. However, the Act did not alter the limit of 25 years for school houses in actual use.

### M.G.L. c.149, §29

The Act increased the dollar threshold for when a payment bond in the amount of at least 50% of the contract price must be furnished for state and local public construction contracts to \$25,000 for all governmental entities. It was formerly \$2,000 for local governmental bodies, and \$5,000 for the state.

### M.G.L. c.149, §44A(2)(A)

The Act amended the public building construction law to require the use of sound business practices for projects estimated to cost less than \$10,000. Formerly, contracts estimated to cost less than \$5,000 required the use of sound business practices and contracts estimated to cost \$5,000 or greater, but less than \$10,000 required the solicitation of 3 written quotes. All contracts estimated to cost less than \$10,000 will require a record that includes, at a minimum, the name and address of the person from whom the services were procured.

## OIG Articles, cont.

### Cooperative Purchasing of Supplies

Cooperative purchasing is an arrangement in which two or more governments purchase under the same procurement contract. A recent amendment to M.G.L. c.30B added section 22, which permits local governmental bodies to purchase supplies from cooperative contracts that have already been procured by the federal government, another state, a political subdivision (city, town, county, etc., and units thereof), of the commonwealth or any other state, so long as the contract is open to Massachusetts governmental bodies and was procured in a manner that constitutes fair and open competition. If you know that a contract was not awarded with competition, you are not eligible to use the contract. Contracts for services may not be purchased under this section.

Additionally, you may conduct or sponsor such cooperative procurements. When conducting or sponsoring a cooperative procurement, governmental bodies subject to M.G.L. c.30B must follow chapter 30B procedures, including requiring a signed non-collusion form and including estimated quantities for contracts exceeding one year in length.

While M.G.L. c.30B does not require you to solicit quotes, bids, or proposals when purchasing supplies from a cooperative contract, you must comply with your local rules, i.e., charters, by-laws or ordinances, where they set stricter requirements such as having a written contract over a certain dollar threshold. A cooperative contract vendor may offer something for sale that was not included in the original bid process. If the supply is not exempted from M.G.L. c.30B, apply the M.G.L. c.30B dollar threshold analysis to determine which M.G.L. c.30B procedures are applicable.

Purchasers under a cooperative contract for supplies will typically be required to sign a participation agreement before making purchases. There are many governmental purchasing cooperatives from which you may buy, including the U.S. Communities Government Purchasing Alliance, the Pennsylvania Education Purchasing Program for Microcomputers (PEPPM) Technology Bidding and Purchasing Program, The Cooperative Purchasing Network (TCPN), and the National Joint Powers Alliance (NJPA).

This Office encourages you to adopt a best practices approach to cooperative purchasing and to fully understand the terms of the contract(s) from which you buy. We recommend the following:

**Corroborate eligibility and competitive procurement:** Before purchasing from a cooperative contract, you should confirm both that the contract was subject to a competitive process and that it is open to Massachusetts jurisdictions that are subject to M.G.L. c.30B. If you are not eligible to purchase from a contract, or know that a contract was awarded without competition, you are not permitted to use the contract.

**Understand pricing.** Vendors can generally give their best prices when they are given an actual quantity or a reliable estimate. In cooperative purchasing, you may be “piggybacking” on a contract, meaning that you are purchasing supplies from a contract that has already been awarded. Piggybacking may not yield the lowest price as the vendor’s price is not based on reliable purchase estimates.

**Conduct market research.** There may be multiple contracts from which you can procure the supply that you are looking for (including out-of-state, Massachusetts statewide contracts, and in-state collective contracts of which you are already a member).

**Verify what the contract offers.** You should first verify what items are included under the contract (everything a vendor sells may not be available under the contract) and at what price. Be sure to verify whether shipping, warranty or other costs are included in the price. Once you have determined the complete cost of the purchase, you should determine which contract offers what you need at the best price. If the price is over budget, consider conducting a procurement using the competitive bidding requirements of M.G.L. c.30B to obtain a lower price.

**Understand dispute resolution procedures.** You should know how disputes are resolved before you enter into a cooperative contract. For example, how are disputes relating to contract performance and debarment or suspension determinations resolved? If a product or item is defective, must the complaint be brought in the state where the original contract was made?

### Purchasing Supplies and Services from the GSA

With the passage of the Municipal Relief Act, certain General Services Administration (GSA) supply schedules have been made available for use by governmental bodies subject to M.G.L. c.30B. Section 1(f) of M.G.L. c.30B provides that all purchases made from vendors pursuant to GSA supply schedules that are open to state and local governments are deemed to comply with M.G.L. c.30B without a further competitive process. It is important to note, however, that the new section applies to only a limited number of GSA’s contracts since most GSA contracts are not open to state and local governments. All other purchases will remain subject to M.G.L. c.30B, that is, you may use GSA contracts when following sound business practices under \$5,000 or as one of three quotes when making a purchase of at least \$5,000 but less than \$25,000. If the contract is valued at \$25,000 or more, you must conduct either an invitation for bids or request for proposals process pursuant to M.G.L. c.30B.

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## OIG Articles, Cont.

### Purchasing from the GSA, continued from previous page.

At the time of publication, the following contracts are open for use by governmental bodies subject to M.G.L. c.30B:

- The Cooperative Purchasing Program permits you to purchase equipment and related services from contracts awarded under GSA Schedule 70 and Schedule 84. Schedule 70 includes general purpose commercial information technology equipment, software and services. Schedule 84 includes total solutions for law enforcement, security, facility management systems, fire, rescue, special purpose clothing, marine craft, and emergency/disaster response.
- The 1122 “Counter-drug” Program permits you to purchase law enforcement equipment, provided that the equipment is used in the performance of counterdrug activities.
- The Disaster Recovery Purchasing Program permits you to purchase a variety of products and services from contracts awarded under other GSA schedules to facilitate recovery from a major disaster, terrorism, or nuclear, biological, chemical, or radiological attack. This program may be used to purchase products and services in advance of a major disaster declared by the President, as well as in the aftermath of an emergency event. You are responsible for ensuring that the products or services purchased are to be used to facilitate recovery.
- The National Wildland Fire Program permits U.S. Forest Service cooperating agencies (those agencies that have formal agreements with the U.S. Department of Agriculture, Forest Service and the U.S. Department of the Interior, Bureau of Land Management) to purchase wildland fire protection equipment and supplies.

For more information on which GSA supply schedules are available to you, please visit <http://www.gsa.gov/portal/content/105300>. Any questions on GSA supply schedules should be referred to Peter Sullivan, Customer Service Director for the GSA Federal Acquisition Service Northeast and Caribbean Region at [peter.sullivan@gsa.gov](mailto:peter.sullivan@gsa.gov).

### e-Procurement: What is a Reverse Auction?

M.G.L. c.30B, §6A permits a chief procurement officer (CPO) to utilize a reverse auction process for the acquisition of supplies and services valued at \$25,000 or more. In general, a reverse auction is an alternative method to a M.G.L. c.30B, §5 invitation for bid (IFB) process for obtaining competitive prices. Except for certain advertising requirements discussed later, all Chapter 30B rules apply, including making an award to the lowest responsive and responsible bidder.

In a traditional auction a participant bids a higher amount than the last bid received, thereby driving prices up. In a reverse auction, a bidder submits a lower bid than the last bid received, thereby driving prices down.

Reverse (also called seller-bid) auctions may offer advantages, which include increased savings, a reduction in clerical work, and time-savings in comparing bids. In addition, the bidders’ time to respond to IFBs can be reduced by using electronic bid submission. Reverse auctions, however have disadvantages, including the focus on price which may cause vendors to trade-off quality.

The reverse auction must be advertised in a similar manner to M.G.L. c.30B, §5. You must publish public notice of an IFB at least two weeks before bids are due. However, you need not include the time and date for receipt of bids, the address of the office to which bids are to be delivered, or the maximum time for bid acceptance. You must specify an opening date and time when real-time electronic bids shall be accepted and provide that the auction remain open until the designated closing date and time. The IFB should state that bids will be received in an electronic auction manner.

Bids on reverse auctions are accepted from registered vendors, i.e., vendors that sign-up before the reverse auction opening date and time agreeing to any of the local jurisdiction’s terms and conditions and other requirements of the IFB. At the time specified in the IFB, bids are posted electronically on the Internet by registered vendors and bids are updated on a real-time basis. Bidders are able to see their own bids and the lowest bid, but not the identity of other bidders or how many bidders are included in the auction. Registered vendors are allowed to submit multiple bids as long as each bid is less than the lowest bid currently listed on the reverse auction site. When the auction ends, the lowest bid from a responsive and responsible vendor wins. You may not accept “best and final” offers” or include a requirement that “bids placed within the last ten minutes of the auction’s closing date and time automatically extend the auction an extra ten minutes.”

## OIG Articles, Cont.



### **e-Procurement: What is a Reverse Auction?, continued from previous page.**

You need not conduct the auction in a meeting that fulfills the requirements of the state's open meeting laws or in the presence of one or more witnesses. Once the auction is over, you must complete the evaluation process using only the criteria specified in your IFB. The evaluation will address the responsiveness of the bid, the responsibility of the bidder, and the price. You will use quality requirements to identify responsive bids and responsible bidders. At the conclusion, the record of the bid prices received and the name of each bidder becomes a public record. Chapter 30B requires records be kept for six years after the date of final payment on the contract.

You may use a variety of mechanisms to host online reverse auction purchasing events, including purchasing reverse auction services from a vendor on an OSD statewide contract and purchasing specialized software or contracting with third-party service providers. Of course, you must conduct the reverse auctions pursuant to Chapter 30B, §6A as summarized herein. The administrative cost will be factored into your decision whether or not to use a reverse auction. Such costs could include setting up the auction, purchasing software, and locating and training vendors.

If your jurisdiction does not buy the quantities of supplies or services to make a reverse auction practicable, talk to your CPO about joining together with other cities and towns for the collective purchase of goods and services using the reverse auction process. You may also continue to purchase from statewide contracts that were procured using the reverse auction process.

Reverse auctions work best when specifications are clear and vendor competition is robust. According to our research, the following commodities and services have saved money when bid pursuant to a reverse auction: transportation services and raw materials such as sugar and salt. Where commodities and services are complex and/or specialized, the reverse auction process tends to be ill-suited. An example of this is computer software purchases for computer departments in a city.

In sum, for the best chance at a successful reverse auction e-Procurement, avoid custom items. Target products that can be easily described and for which a competitive market exists.

**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 have.**

**617-722-8838**

### **MSBA Training and Recertification Requirements**

As you may know, the Massachusetts School Building Authority (MSBA) has instituted training requirements for school districts contemplating construction projects funded by the MSBA. Training is also mandatory for certain owner's representatives (consultants) to the school district. The training requirements are designed to inform parties to a proposed school construction project about the latest laws, regulations and practices surrounding school design and construction.

The MSBA requires that the person in charge of the procurement of contracts for design, construction and/or furnishings, fixtures & equipment on behalf of the school district be designated as an MCPPO for Design & Construction Contracting. Additionally, the private sector project director for the owner's project manager and the designer directly in charge of the project are required to have successfully completed the 4-day training course entitled, *Certification for School Project Designers and Owner's Project Managers*, also offered by the MCPPO Program. The specific training requirements for owner's project managers and designers are defined in the MSBA's regulations available on the MSBA's website at [www.MassSchoolBuildings.org](http://www.MassSchoolBuildings.org).

Every three years public purchasing officials who have earned an MCPPO designation are required to recertify. A three-year recertification requirement also applies to the private sector attendees of the 4-day school project designer and owner's project manager training who have received their certificate of completion. These individuals must recertify by simply attending a 1-day "refresher course". The one-day class entitled, *Recertification for School Project Designers & Owner's Project Managers*, is being offered for the first time in November. It does not have an exam component.

If you are a private sector school project manager or designer and received your MCPPO certificate in 2007, you are currently due for recertification. The first recertification training will be held on Thursday, November 18, 2010 at the MCPPO facility in Boston and via video conference at a western MA location - to be announced. Please visit our website [www.mass.gov/ig](http://www.mass.gov/ig) for location information. Please see page 6 of this Procurement Bulletin for the registration form for this class. The recertification class will also be offered during the January 2011 - June 2011 training cycle. For registration information please contact Joyce McEntee Emmett, MCPPO Director at 617-722-8835 or email her at [EmmettJM@maoig.net](mailto:EmmettJM@maoig.net).



**MASSACHUSETTS CERTIFIED PUBLIC PURCHASING OFFICIAL PROGRAM  
REGISTRATION FORM July–December 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](http://www.mass.gov/ig).

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| <b>PUBLIC CONTRACTING OVERVIEW</b><br><i>No Prerequisite</i>   | 3-day seminar  | <b>Tuition:</b> \$450 for government/non-profit employees<br>\$700 for all others              |
| <input type="checkbox"/> September 21, 22, 23–2010   | <b>BOSTON</b>  |  |
| <input type="checkbox"/> September 21, 22, 23–2010   | <i>Video Conference hosted by Gateway RSD HUNTINGTON Limited seats available</i> |  |
| <input type="checkbox"/> November 2, 3, 4–2010   | <b>BOSTON</b>  |  |
| <b>SUPPLIES &amp; SERVICES CONTRACTING</b><br><i>Prerequisite: Public Contracting Overview or Charter School Procurement</i>   | 3-day seminar  | <b>Tuition:</b> \$450 for government/non-profit employees<br>\$700 for all others              |
| <input type="checkbox"/> October 19, 20, 21–2010   | <b>BOSTON</b>  |  |
| <b>DESIGN &amp; CONSTRUCTION CONTRACTING</b><br><i>Prerequisite: Public Contracting Overview or Charter School Procurement</i> | 3-day seminar  | <b>Tuition:</b> \$650 for government/non-profit employees<br>\$900 for all others              |
| <input type="checkbox"/> September 28, 29, 30 –2010  | <b>BOSTON</b>  |  |
| <input type="checkbox"/> September 28, 29, 30–2010   | <i>Video Conference hosted by Gateway RSD HUNTINGTON Limited seats available</i> |  |
| <input type="checkbox"/> November 30 & December 1, 2–2010  | <b>BOSTON</b>  |  |
| <b>ADVANCED TOPICS UPDATE</b>  | 2-day seminar  | <b>Tuition:</b> \$350 for government/non-profit employees<br>\$600 for all others              |
| <input type="checkbox"/> October 26 & 27–2010  | <b>BOSTON</b>  |  |
| <input type="checkbox"/> October 26 & 27–2010  | <i>Video Conference hosted by Gateway RSD HUNTINGTON Limited seats available</i> |  |
| <b>CERTIFICATION for School Project Designers &amp; Owner's Project Managers</b>   | 4-Day Training   | <b>Tuition:</b> \$1200 –Private Sector   |
| <input type="checkbox"/> October 6, 7, & 13, 14–2010   | <b>BOSTON</b>  |  |
| <input type="checkbox"/> December 8, 9, & 15, 16–2010  | <b>BOSTON</b>  |  |
| <b>RECERTIFICATION for School Project Designers &amp; Owner's Project Managers</b>   | 1-Day Training   | <b>Tuition:</b> \$600.00–Private Sector  |
| <input type="checkbox"/> November 18–2010  | <b>BOSTON</b>  | <i>*Video Conference site to be announced</i>  |
| <b>CONSTRUCTION MANAGEMENT AT RISK Under M.G.L. c. 149A: Legal Requirements &amp; Practical Issues</b>                         | 1-day seminar  | <b>Tuition:</b> \$275 for government/non-profit employees<br>\$600 for all others              |
| <input type="checkbox"/> November 23–2010  | <b>BOSTON</b>  | <i>*Introductory material geared to procurement officials who are not construction experts</i> |
| <b>CHARTER SCHOOL PROCUREMENT</b><br><i>No Prerequisite</i>  | 2-day seminar  | <b>Tuition:</b> \$400 for government/non-profit employees<br>\$600 for all others              |
| <input type="checkbox"/> November 16 & 17–2010   | <b>BOSTON</b>  |  |
| <b>Drafting A Model IFB</b><br><i>Disk program requiring Microsoft Word 7.0 or higher</i>                                      | <input type="checkbox"/> Self-paced  | <b>Tuition:</b> \$75 ea. for govt./non-profit employees<br>\$200 for all others                |

**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](http://www.nasba.org). Web site: [www.nasba.org](http://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).

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# ARRA

American Recovery and Reinvestment Act

## Introduction

This section of the *Procurement Bulletin* focuses on matters pertaining to American Recovery and Reinvestment Act (ARRA) funds. It serves 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](http://www.mass.gov/ig)

## Grant Communication

A strong relationship between a grantor and its contractors is essential if ARRA funds are to be disbursed appropriately. Forming open and direct communication with your sub-grantee, vendor, or contractor can ensure that contract terms and conditions are followed. It will also help make certain that projects adhere to ARRA and specific program requirements. To assist this process, it is important to develop:

- Clear expectations in writing, detailing project requirements, quality of services expected, purpose of contract, and monitoring methods
- Methods of measuring performance and project goals

While it may be difficult to establish and maintain a positive dialogue with sub-grantees, contractors etc, doing so will help to ensure successful project completion and goal attainment.

## Procurement of Ride Vans

The OIG reviewed the procurement of 108 vans with ARRA funds for the MBTA's *Ride* program, conducted by the Executive Office of Transportation (EOT), now the Massachusetts Department of Transportation (MassDOT). The OIG found the following:

- The RFR did not clearly differentiate between mandatory and preferred requirements which deterred prospective bidders and created a burden on bidders to comply with specifications that EOT ultimately did not require.
- The evaluation committee did not follow OSD guidelines when reviewing bids which may have compromised the fairness of the competition.
- The purchased vans failed to meet some RFR requirements.
- The decision to purchase the vans may have unfairly impacted the prior procurement of the *Ride* service.

The OIG recommended that MassDOT and the MBTA review their procurement practices and rebid the contract as soon as possible. In a response to the OIG, MassDOT stated that they would seek to rebid the van contract.

The letter can be accessed at:

[http://www.mass.gov/ig/oigarra/mbta\\_vans\\_letter.pdf](http://www.mass.gov/ig/oigarra/mbta_vans_letter.pdf)

## Grant Monitoring Strategies

Monitoring of ARRA grant recipients ensures that stimulus funds are spent appropriately and effectively. A lack of monitoring can produce a wide range of negative results, including incomplete projects; project mismanagement; neglect of laws and regulations; and the abuse of awarded funds. In order to minimize unwanted results, it is important to:

- Clearly identify and understand intended and actual uses of funds
- Know if funds are being used appropriately and for the intended purposes of the grant
- Ensure timely and accurate reporting
- Ensure that program goals and targets are identified and met
- Implement necessary measures are implemented to prevent fraud, waste, and abuse

Sound internal controls should always be applied to the monitoring of ARRA funds. Maintaining a database of contractors, forming coherent policies, and extensive on-site inspections are just a few internal controls that can reduce fraud, waste, and abuse.

## OIG Letter on EECBG Sub-recipient Monitoring

The OIG worked with the Department of Energy Resources (DOER) to help improve its internal ability to effectively monitor recipients of their Energy Efficiency and Conservation Block Grant (EECBG). After discussion with DOER, the OIG recommended that it consider the following for its sub-recipient monitoring plan:

- Define the scope of the sub-recipients monitoring role
- Assess risks/ identify vulnerabilities
- Develop a monitoring plan

For the detailed guidance, you can access the OIG's letter at: [http://www.mass.gov/ig/oigarra/arra\\_eecbg\\_monitoring.pdf](http://www.mass.gov/ig/oigarra/arra_eecbg_monitoring.pdf)

## Report Fraud Online

Report fraud, waste, or abuse electronically through a confidential complaint form found on <http://www.Mass.gov/recovery> home page under the "Report Fraud, Waste & Abuse!" tab.

## Confidential Fraud Hotline:

Please do not hesitate to use the OIG hotline (800)322-1323 to report 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 cycle begins October 1, 2010.

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