
PROCUREMENT BULLETIN

Volume 3, No. 3

A Publication of the Office of the Inspector General

September 1997

IG Greetings

*Omnibus ad quos praesentes
litterae pervenerint salutem*

I am pleased to announce that beginning October 6, 1997, our office will offer Chapter 30B technical assistance five days per week instead of three days per week. Please see page three for more information.

This Office will be presenting a series of seminars for public purchasing officials this fall as part of the Massachusetts Certified Public Purchasing Official (MCPPO) program. The MCPPO program began in January 1997, and already more than 300 public purchasing Officials from all parts of the Commonwealth have attended one of the seminars.

The response to the MCPPO program from the purchasing community has been enthusiastic and the seminars planned for this fall promise to be informative and dynamic. This Office will be holding general seminars on September 24-26, October 15-17, and December 3-5 in Boston and October 29-31 in Western Massachusetts. Dates are also scheduled for specialized supplies and services seminars for those who have completed the general seminar. For a seminar schedule and registration information, please call Anne Tierney or Genesi Dorsey at (617) 727-9140.

Sincerely,

Robert A. Cerasoli
Inspector General

School Milk Bids: Beware of Overcharging

Every year, schools enter into contracts for milk that usually provide for a variable monthly price based on the federal milk order announced on the fifth of every month. The federal milk order announcement covers class prices and butterfat differential, factors that both affect the price a school pays for its milk. The vendor usually calculates the new monthly price and submits a monthly sales invoice to the school.

Some schools have been overcharged due to the vendor's failure to include the butterfat differential in the price calculation. It is very important that you review these bills to ensure that you are not overpaying under your contract. If you need information about how to calculate prices based on the federal milk order, you can contact either Bill Gillmeister (ext. 119), or Jim Hines (ext. 180) at the Massachusetts Department of Food and Agriculture, Division of Dairy Services, (617) 727-3029.



Municipally-Owned Agricultural Property Yields Profits

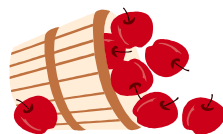
Several cities and towns across Massachusetts own conservation land that produces agricultural products, such as cranberries or apples, that are a great source of income. In addition, the farms are typically open to the public and run educational programs.

This Office reviewed the income produced by several town-owned cranberry bogs in Massachusetts. The Town of Duxbury received revenue totaling \$112,790.02 for the 1995 harvest from the lease of its four bogs. Duxbury receives between 40% and 46% of gross cranberry sale proceeds under its lease terms.

The Town of Falmouth received \$81,521.88 from its 1995 cranberry crop and \$84,375 for the 1994 cranberry crop. Falmouth leases 65 acres of cranberry bog to a manager and receives 25% of the lessee's sale proceeds.

One town was less fortunate with the lease of its cranberry bog. In 1995, the Town of Carlisle entered into a lease with a cranberry bog operator who pays Carlisle nothing. The bog operator's ten-year lease with the Town allows him to keep all revenue from the sale of the cranberries. According to Carlisle, the bog operator was the only responsive proposer who responded to the RFP to lease the bog. The Town could have avoided this one-sided lease by taking steps to generate more competition or by requiring a minimum revenue percentage amount or a minimum lease price.

The City of Peabody uses a different approach to operating and managing its 232-acre apple orchard, Brooksby Farm. Peabody has city employees manage and operate its orchard, which grows 36 varieties of apples as well as strawberries, blueberries, pumpkins and Christmas trees. The City operates a bakery, makes its own cider, and sells apples to local jails. The revenue from this past fiscal year for the Farm's operations totaled \$490,767.



Potential Problems With Proprietary Specifications

Using a brand name followed by the clause "or equal" to specify a product may seem to save time at first, but sometimes it can create problems that cost you more time, or even more money, in the long run. One Massachusetts town recently went out to bid for a copy machine and specified a manufacturer's model "or equal." The specified model featured a three-hole punch. When the town opened bids, the low bidder was \$12,000 cheaper than the second low bidder, who offered the brand name machine specified. The low bidder offered a copy machine that met or exceeded all of the specified model's features except that it was unable to punch three holes. Since the bid specifications required the machine to punch three holes, the low bidder had to be rejected as non-responsive. The town determined that it did not really need the three-hole punch feature and that purchasing three-hole punch paper as needed would be cheaper. The town rejected both bids and redrafted its specifications to exclude the three-hole-punch feature.

You can use model specifications as a starting place for a purchase, but you should weed through any model specification to determine which features you really need. Whenever possible, this Office recommends drafting performance-driven specifications, which specify what a product must actually do, in order to maximize competition.

Questions About Chapter 30B

My advertisement for a computer procurement specified that the invitation for bids (IFB) could be obtained by picking it up at the school business office. A company from California called in response to the advertisement and requested that I mail them a copy of the IFB, which is about 75 pages long. Must I mail the IFB to the company at no cost to the company?

You are required to make the IFB available to all interested bidders on an equal basis. However, you may charge a reasonable fee to cover the cost of copying and mailing to any company that requests that you mail them an IFB.

My jurisdiction needs to lease some office space in a building downtown for a period of two years while our town hall undergoes renovation. The lease is estimated to cost \$18,000 per year. Must we solicit price proposals?

Yes. M.G.L. c.30B requires that jurisdictions leasing or buying real property for more than \$25,000 solicit competitive sealed proposals. The procedures are set out in section 16 of M.G.L. c.30B. When determining the cost of the lease, you look at the cost of the entire transaction, not merely the annual cost of the lease. In the instance above, the cost of the lease will be \$18,000 for two years for a total of \$36,000. Therefore, your jurisdiction must advertise for proposals to lease the office space.

I recently solicited bids for a financial consultant to assist my jurisdiction with its upcoming bond issue. I advertised the IFB in our local weekly paper, but no one responded. May I now hire any consultant even though the contract is estimated to cost \$12,000?

No. M.G.L. c.30B does not contain a provision that would allow you contract with whomever you choose because no one responded to your advertisement. If the time for opening bids has not passed, you may extend the bid due date and send the IFB to firms that may be interested in the contract.

If your bid due date has passed, you must readvertise. You may want to expand your advertising to include more newspapers. Or you may mail your IFB to firms that provide financial consulting services, in addition to placing an advertisement in a newspaper of general circulation at least two weeks prior to your bid due date.

INSPECTOR GENERAL'S PROCUREMENT

The Office of the Inspector General is pleased to announce that beginning October 6, 1997, M.G.L. c.30B technical assistance will be provided five days per week, Monday through Friday, from 9:00 a.m. to 5:00 p.m. M.G.L. c.30B applies to most supply, service, and real property transactions entered into by local governmental bodies, such as cities, towns, school districts and counties. If you have a question about a procurement, simply telephone our Office and ask to speak with a Chapter 30B attorney. We receive numerous calls, so you may have to leave a message with the receptionist. If you must leave a message, we will make every effort to return your call before the end of the day.