

# Massachusetts Office of the Inspector General

## Procurement Bulletin

### Recent OIG Reports

The following reports were issued by the Massachusetts Office of the Inspector General and are all available for download at [www.mass.gov/ig](http://www.mass.gov/ig).

#### 2002 Annual Report

The 2002 Annual Report highlights and summarizes OIG activities for calendar year 2002.

#### Disposition of Hale Hospital and Glynn Memorial Nursing Home under M.G.L. c. 30B, §16

The recent sales of Hale Hospital and the former Glynn Memorial Nursing Home by the City of Haverhill illustrate the benefits of open competition and the use of sound appraisal methods in municipal property dispositions. In February 2003, the City sold the five-acre parcel to proposers, who responded to the City's request for proposals (RFP) with a plan to use the property to establish an integrated care facility. The winning price proposal of \$779,000 represented a substantial revenue source to the City that, like so many communities in the Commonwealth, faces significant budgetary shortfalls this year.

The City's disposition of the Hale Hospital and Glynn sites provides a useful illustration of the benefits of formal competition and independent appraisals in real property dispositions.

*-continued on page 4-*

#### Inside this issue:

Tips to Avoid School Bus Transportation Bid Protests page 2

City of Fitchburg Saves 2 Million on School Bus Transportation page 3

MCPPO Re-certification Change page 5

### Spotlight On M.G.L. c. 30B, §12: Legal Requirements for Supplies and Services Contracts

Of the questions this Office receives about M.G.L. c. 30B issues, questions relating to the M.G.L. c. 30B, §12 requirements are among the most frequent. This article will attempt to summarize the requirements of this section, and offer some practical tips to ensure compliance.

The first thing to remember about M.G.L. c. 30B, §12 is that it applies to contracts for supplies and services, not to real property (real estate) contracts or to contracts that fall under the public design and construction bid laws, M.G.L. c. 30, §39M, M.G.L. c. 149, and M.G.L. c. 7, §§38A½-O. There are three basic issues covered by M.G.L. c. 30B, §12: the term of a contract, renewal and extension options, and information to be included in your solicitation, whether it be an invitation for bids (IFB), request for proposals (RFP), or price quotation solicitation.

#### Term of a Contract

As most of you know, if a contract term will exceed 3 years, including any renewal, extension or option, you must obtain authorization by majority vote. (See page 20 of *Municipal, County, District, and Local Authority Procurement of Supplies, Services, and Real Property*, 4th Edition, for a description of what satisfies majority vote.)

M.G.L. c. 30B, §12 also requires that term of the contract, including any renewal, extension or purchase options, be included in your solicitation (your IFB, RFP or price quotation solicitation). For

*-continued on page 3-*

## Tips to Avoid School Bus Transportation Bid Protests

Contracts for school bus transportation services often involve large dollar amounts. Bid protests are common in this arena and every year, this Office receives several complaints about school bus transportation invitations for bids (IFB).

Protests are frustrating and time-consuming for everyone involved. For this reason, this Office encourages public officials to send a draft of your school bus transportation IFB to this Office for review prior to advertising. You may mail your IFB for review to the following address:

Office of the Inspector General  
One Ashburton Place, Room 1311  
Boston, MA 02108  
Attn: Beth Hayward

Or, you may e-mail your IFB to [oiglegal@gis.net](mailto:oiglegal@gis.net). Please allow at least three weeks for a review.

### Tips for public officials:

1. Include a bid price form that includes estimated quantities. Allow bidders to fill in unit and total prices. Also include estimated mileage and wait time for field trips and athletic trips on your bid price form.

#### Example:

##### Regular Route Buses:

##### Estimated need:

15 buses for 180 days per year.

##### Price per bus per day:

\_\_\_\_\_ x 15 buses x 180 days = \_\_\_\_\_ Annual Cost

##### Three-Year Total:

\_\_\_\_\_ (A)Annual Cost x 3 years

(For sample school bus transportation bid price forms, see the *Practical Guide to Drafting Effective Invitations for Bids and Requests for Proposals for Supplies and Services* on the Inspector General's Web site: [www.mass.gov/ig](http://www.mass.gov/ig).)

2. In addition to your newspaper advertisement, make sure that the contract is advertised in the *Goods and Services Bulletin* at least two weeks before the bid due date, if the contract will cost \$100,000 or more. Forms for the *Goods and Services Bulletin* can be found at the Secretary of the Commonwealth's Web site: [www.state.ma.us/sec/spr/sprinf/infogood.htm](http://www.state.ma.us/sec/spr/sprinf/infogood.htm). Keep in mind that the deadline for publication in the *Goods and Services Bulletin* is on Wednesday for the following week's issue.

3. Your specifications should include a clear scope of services that provides bidders with enough information to price the contract. For example, you should specify the minimum size of the buses required, the maximum age and mileage of the buses, and the number of students to be bused and/or the bus routes.

4. Specify the contract term length, including any renewal or extension options. If you include renewal or extension options, you should obtain prices for the option years. However, your award will be based on the contract price, without considering option year prices. You may consider option year prices when you make your reasonable investigation as to whether it is more cost effective to exercise the option or go back out to bid. Do not forget that a contract exceeding three years, including renewal and extension options, requires majority vote approval. (See page 20 of *Municipal, County, District, and Local Authority Procurement of Supplies, Services, and Real Property*, 4th Edition, for a description of what satisfies majority vote.)

5. Include a clear rule for awarding the contract and specify whether you are awarding one contract to the lowest total price or multiple contracts, one contract to the lowest bidder for each route or type of bus service.

### Tip for school bus transportation vendors:

Notify the awarding authority or this Office if you see a problem with an IFB before the bids are opened. This will allow the municipality to issue an addendum to correct any problems with the IFB before the bids are opened, and will hopefully alleviate the need to redo the entire process.

## City of Fitchburg Saves 2 Million on School Transportation Contract

In June 2003, the City of Fitchburg issued an invitation for bids (IFB) for school bus transportation. The IFB specified a start date of July 1, 2003, which required potential bidders to have the required buses in less than 30 days time.

After receiving a call from a vendor about this requirement, Fitchburg's Purchasing Agent, Nancy Wilson, decided to make the IFB requirement less restrictive in order to open the contract up to more competition. Ms. Wilson issued an addendum to the IFB which allowed bidders to obtain the required buses within 120 days after the contract was awarded and permitted the use of substitute buses during the interim.

Because of this small change to the IFB specifications, a non-incumbent bidder was able to meet the IFB specifications. This resulted in a savings for the City of two million dollars over a period of 5 years.

## Spotlight On M.G.L. c. 30B, §12: Legal Requirements for Supplies and Services Contracts, continued

example, if you are soliciting a one year contract for office supplies with 2 one year renewal options, your IFB must state these terms.

### Renewal and Extension Options

As mentioned above, renewal and extension options must be stated in your solicitation. The governmental body must retain sole discretion in exercising the option, and no option shall be subject to agreement or acceptance by a contractor.

Your initial contract award is not based on any of the prices for renewal and extension options. Instead, at the time that the renewal or extension option is to be exercised, the procurement officer must make a reasonable investigation of the costs and benefits of exercising the option. If the exercise of the option is more advantageous than undertaking a new procurement, the procurement officer must make a written determination that exercising the option is more advantageous than alternate means of procuring compatible supplies or services.

### Information to be Included in the Solicitation

M.G.L. c. 30B, §12 also includes requirements on information that must be included in a solicitation, whether it be an IFB, RFP, or request for price quotations, for any contract to exceed a one year term, including any renewal and extension options. This section requires that your solicitation include:

- the amount of supplies or services required for the proposed contract period, and whether such amount is the actual amount required or an estimate;
- that the bidder or offeror shall give a unit price for each supply or service, and that the unit price shall remain the same throughout the contract, except to the extent that the solicitation and resulting contract provides for price adjustments;
- that the procurement officer shall cancel the contract if funds are not appropriated or otherwise made available for the contract; and
- a statement informing offerors how the contract award will be determined, including how prices will be compared.

## Recent OIG Reports, continued

This case also underscores the risk of underestimating the value of municipally owned property that is offered for sale. A professional appraisal, executed pursuant to generally accepted industry standards, can give the awarding authority realistic and valuable information on the worth of its property on the open market. Additionally, the City's RFP was amenable to a variety of potential users of the property and, thus, generated interest from several proposers. The Office commends the City for its persistence and its responsiveness to the Office's suggestions and recommendations.

### Proprietary Specifications in Public Construction Projects

In September 2002, at the request of Senator Stanley Rosenberg, the Office of the Inspector General undertook a limited review of the use of proprietary specifications in contracts for construction and repair of roofs on school buildings throughout Massachusetts. The issues brought to the attention of the Office centered on whether school districts were improperly using specifications that favored certain brands of roofing products, thereby effectively eliminating competition and increasing the costs of public construction. There was anecdotal evidence that some Massachusetts communities had issued unduly restrictive roofing specifications that contravened statutory requirements intended to promote competition among suppliers and installers of building materials. Similar practices had been reported in other states, where such practices had encouraged price-gouging by roofing contractors.

In the course of examining this issue, the Office contacted numerous local officials, designers, and product representatives as well as state officials responsible for implementing construction projects. Based on the Office's interviews and reviews of roofing specifications, the Office concluded that public awarding authorities would benefit from amplification and clarification of the legal requirements for specifying materials to be used on public construction projects in Massachusetts. The advisory provides guidance to public officials, designers, and vendors as to the proper procedures and underlying competitive principles that should govern use

of proprietary specifications on public construction projects in Massachusetts. The advisory also emphasizes the importance of avoiding the improper use of proprietary specifications in order to facilitate conducting an open, competitive process.

Specifications that genuinely foster competition will help Massachusetts awarding authorities obtain the quality of building materials desired at the best available price. The Inspector General has also filed legislation amending M.G.L. c.30, §39M(b), which governs specifications for building materials, in order to clarify the requirements governing the use of proprietary specifications in public construction projects.

### Braintree's Sewer Permit and Sewer Bank Program

The Office of the Inspector General (Office) received a complaint concerning the Braintree Water and Sewer Commission's (Commission) administration of sewer permits, permit fees, and the Town of Braintree's sewer bank. The Office subsequently undertook a limited review of the sewer permit and sewer bank program administered by the Braintree Water and Sewer Department (Department) and overseen by the Commission. During the course of that review, the Office identified an unusual contract arrangement between the Commission and a local developer in which the developer agreed to construct improvements for the Commission in exchange for credits against future sewer fees. This 1998 deal appears to have been made by the Commission in violation of the public construction bidding statutes and provided for weak contract controls.

In January 2003, the Office submitted the facts regarding this contract to the Office of the Attorney General and requested an informal opinion regarding the applicability of the construction bid laws (specifically, M.G.L. c. 30, §39M) to the contract. In a February 2003 letter, the Office of the Attorney General concurred with this Office's view that the statute did apply to this agreement. In July 2002, the Department was moved under the jurisdiction of the Department of Public Works, which is under the control and supervision of the Board of Selectmen.

## Congratulations to New MCPPOs!

The Office of the Inspector General extends congratulations to the most recent recipients of MCPPO designations based on applications reviewed between May 2, 2003 and August 15, 2003.

### **MCPPO**

**Christopher J. Bradley**, City of Beverly  
**William A. Burnett**, Quabbin RSD  
**John W. Coderre**, City of Chelmsford  
**Robert C. Lawton, Jr.**, Town of Yarmouth  
**Patricia A. Lucken**, City of Lowell  
**Regina A. Messina**, Brockton Housing Authority  
**Wayne H. Miller**, Hudson Public Schools  
**Patricia A. Murry**, Chicopee Housing Authority  
**Richard J. Pishkin**, Bunker Hill Community College  
**Peter Pistorino**, Hudson Public Schools  
**David O. Travers**, Lynn Water and Sewer Commission  
**Robert E. Zelandi**, MassPort

### **MCSP0**

**John A. Clarkeson**, MDC-EOEA

**Jean Zona**, Bridgewater State College

### **MCSP0 for Design and Construction**

**Don Hall**, Quinsigamond Community College  
**James M. McDaid**, Massachusetts College of Art  
**Louise Storey**, Mass. Bay Community College

### **MCPPO for Supplies and Services**

**Susan Milne**, Town of Yarmouth

### **Associate MCPPO**

**Donna M. Compton**, City of Gloucester  
**Kristine M. Shipps**, South Shore Charter School

### **Associate MCPPO for Design and Construction**

**Nicole LeBlanc**, Mass. Bay Community College  
**Patricia Solitro**, Quinsigamond Community College

### **Associate MCPPO for Design and Construction**

**Nancy Riebschlaeger**, Town of Orange  
**Ann Zopatti**, Braintree Public Schools

## Revised MCPPO Re-certification Requirements

The Inspector General has revised the requirements for MCPPO/MCSP0 recertification (including Associate level designations). Beginning on January 1, 2004, every certified MCPPO/MCSP0 will be required to earn at least 25 qualifying continuing education credits during the three year period following the certification date, and every three years thereafter, in order to maintain his or her MCPPO/MCSP0 designation. This requirement replaces the previous 60-credit recertification requirement.

Beginning on January 1, 2004, every certified MCPPO/MCSP0 will be required to attend one of the following three seminars during the re-certification period: *Supplies and Services Contracting* (17 continuing education credits), *Design and Construction Contracting* (17 continuing education credits) or *MCPPO Advanced Topics Update* (13 continuing education credits). The remaining continuing education credits required to fulfill the 25-credit requirement may be obtained through other professional affiliations and training or by attendance at more than one of the above mentioned semi-

nars. The schedule for the two-day *MCPPO Advanced Topics Update* seminar will be published in the December 2003 Procurement Bulletin. MCPPOs/MCSP0s attending or re-attending an MCPPO seminar for recertification are not required to take seminar examinations.

Certified MCPPOs/MCSP0s who have been recertified, or who have applied for recertification prior to January 1, 2004 will be granted an extension of their certification periods of one additional year. These MCPPOs/MCSP0s will be required to apply for recertification four years, rather than three years, from their recertification dates, and then every three years thereafter, in order to maintain their MCPPO/MCSP0 designations.

As before, an MCPPO/MCSP0 applying for recertification must submit an application form, a CORI check release form signed by the applicant, and a check for \$75 payable to the Office of the Inspector General. Applicants will be required to certify that they have earned the required number of continuing education credits beyond those awarded for MCPPO seminars.





**Massachusetts Certified Public Purchasing Official Program**  
**Massachusetts Office of the Inspector General**  
 One Ashbuton Place, Room 1311  
 Boston, MA 02108  
 (617) 727-9140

**Who Should Attend**

Local government officials and others interested in local government contracts for supplies, services, real property, and construction.

**Earn Professional Certification**

**For an in-depth description of courses offered, please visit our website at [www.mass.gov/ig](http://www.mass.gov/ig) and download a course catalog, or you may call 617-727-9140 to request a catalog, or fax a request to 617-723-2334.**

**Seminars Offered for 2003**

For full course descriptions, please download a catalog from <http://www.mass.gov/ig/mcppo/catal02.pdf>

**Public Contracting Overview                      3-day seminar**

**Tuition: \$300 for government/non-profit employees  
 \$500 for all others**

An overview of legal requirements and best practices for public contracting by local governmental bodies, with hands on workshops that apply contracting knowledge and skills to practical problems faced by the procurement official. A prerequisite for *Supplies and Services Contracting* and *Design and Construction Contracting*, this three-day seminar is invaluable both for experienced public officials and those who have recently entered the field or are working in a support capacity. This seminar concludes with a written examination. You may earn 20 CPE and 20 PDP credits.

<b>October 7-9, 2003</b>	<b>8:30-4:30</b>	<b>Boston</b>
<b>January 21-23, 2004</b>	<b>8:30-4:30</b>	<b>Boston</b>

**Design and Construction Contracting                      3-day seminar**

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

**Prerequisite: *Public Contracting Overview* or *State Contracting Overview***

This in-depth, three-day seminar is tailored to professionals facing the complex issues of today's design, public building construction, and public works construction projects. Participants will learn practical applications and effective strategies to guide them through procurement and administration of design and construction contracts. This seminar concludes with a written examination. You may earn 20 CPE and 20 PDP credits.

<b>September 23-25, 2003</b>	<b>8:30-4:30</b>	<b>Boston*</b>
<b>November 4-6, 2003</b>	<b>8:30-4:30</b>	<b>Boston</b>
<b>May 11-13, 2004</b>	<b>8:30-4:30</b>	<b>Boston</b>

\*Note location change

**State Contracting Outline                                      1-day seminar**

**Tuition: \$100 for government/non-profit employees  
 \$175 for all others**

An overview of legal requirements and best practices for public contracting by state agencies, this course covers legal requirements for public contracts, consumer protection laws, the designer selection and public construction bid laws, state ethics law, and the prevailing wage law. This course fulfills the prerequisite requirement for DCAM delegated authority for construction projects. You may earn 7 CPE and 7 PDP credits.

<b>October 23, 2003</b>	<b>8:30-4:30</b>	<b>Boston</b>
<b>April 29, 2004</b>	<b>8:30-4:30</b>	<b>Boston</b>

**Supplies and Services Contracting                      3-day seminar**

**Tuition: \$300 for government/non-profit employees  
 \$500 for all others**

**Prerequisite: *Public Contracting Overview***

Comprehensive and challenging, this seminar focuses on procurements under the Uniform Procurement Act, M.G.L. c. 30B. Presented in an easy-to-follow, hands-on workshop format, participants are guided through practical applications of this law. Participants will learn about writing effective specifications, obtaining best value using an invitation for bids, making the request for proposals process work, common bidding problems and how to resolve them, effective contract administration, and more. This seminar concludes with a written examination. You may earn 20 CPE and 20 PDP credits.

<b>March 10-12, 2004</b>	<b>8:30-4:30</b>	<b>Boston</b>
--------------------------	------------------	---------------



# MASSACHUSETTS CERTIFIED PUBLIC PURCHASING OFFICIAL PROGRAM REGISTRATION

Office of the Inspector General  
Phone: (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. Non-Profit employees include any employee of a 501(c)(3) corporation. Proof of non-profit status must be provided with registration.

### 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, Room 1311  
Boston, MA 02108

ATTN: MCPPO

#### 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. Change in seminar date and/or cancellations received (BY FAX) less than 2 business days prior to the seminar date are subject to a \$25 transfer fee - NO-SHOWS WILL BE INVOICED A \$50 SERVICE CHARGE.

### FOR MORE INFORMATION:

Please contact Joyce McEntee Emmett, MCPPO Program Director at (617) 727-9140.

<b>PUBLIC CONTRACTING OVERVIEW</b>	3-day seminar	Tuition:	\$300 for government/ non-profit employees \$500 for all others
<input type="checkbox"/> OCTOBER 7- 9, 2003	BOSTON		
<input type="checkbox"/> JANUARY 21-23, 2004	BOSTON		
<b>STATE CONTRACTING OUTLINE</b>	1-day seminar	Tuition:	\$100 for government/ non-profit employees \$175 for all others
<input type="checkbox"/> OCTOBER 23, 2003	BOSTON		
<input type="checkbox"/> APRIL 29, 2004	BOSTON		
<b>SUPPLIES &amp; SERVICES CONTRACTING</b>	3-day seminar	Tuition:	\$300 for government/ non-profit employees \$500 for all others
Prerequisite: Public Contracting Overview or Outline			
<input type="checkbox"/> MARCH 10-12, 2004	BOSTON		
<b>DESIGN &amp; CONSTRUCTION CONTRACTING</b>	3-day seminar	Tuition:	\$400 for government/ non-profit employees \$600 for all others
Prerequisite: Public or State Contracting Overview			
<input type="checkbox"/> SEPTEMBER 23-25, 2003	BOSTON (note location change)		
<input type="checkbox"/> NOVEMBER 4-6, 2003	BOSTON		
<input type="checkbox"/> MAY 11-13, 2004	BOSTON		

### POLICY OF NON-DISCRIMINATION:

The 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 Vietnamera 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 nondiscrimination policy for MCPPO programs may be addressed to Joyce McEntee Emmett, Program Director, at 617-727-9140.



The 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 NASBA, 150 Fourth Avenue North, Suite 700, Nashville, TN 37219-2417, (615) 880-4200.



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

### PAYMENT:

CHECK/M.O.     PURCHASE ORDER #     I E/IV

NAME: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX \_\_\_\_\_

E-MAIL: \_\_\_\_\_

ORGANIZATION/JURISDICTION: \_\_\_\_\_

TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

HOW LONG HAVE YOU BEEN EMPLOYED AS A PURCHASING OFFICIAL? \_\_\_\_\_

Do you need special accommodations? \_\_\_\_\_

## **Update on the IG's Procurement Reform Legislation**

As reported in the last issue, the Office of the Inspector General has filed a revision to House No. 51, a bill relative to raising public bidding thresholds. House No. 51 is a comprehensive proposal to streamline and reform the public design and construction procurement laws and M.G.L. c. 30B, which applies to the procurement of supplies, services, and real property by local jurisdictions.

Currently, House No. 51 is in the Committee on State Administration. In addition, as part of Governor Romney's Municipal Relief Package, the Committee on State Administration will be required to study and make recommendations for changes to the M.G.L. c. 30B procurement threshold. The Committee must file recommendations for changes with the House and Senate Clerks by October 1, 2003.

For specific provisions of House No. 51, please see the June 2003 *Procurement Bulletin*, which may be downloaded from [www.mass.gov/ig](http://www.mass.gov/ig).

## ***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 Beth Hayward at [oiglegal@gis.net](mailto:oiglegal@gis.net). If you do not have an e-mail address and would like to receive a paper copy via mail, please fax your mailing address to Beth Hayward at 617-723-2334.

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

---

**Massachusetts Office of the Inspector General**  
**One Ashburton Place, Room 1311**  
**Boston, MA 02108**  
**(617)727-9140**  
**[www.mass.gov/ig](http://www.mass.gov/ig)**