



The Commonwealth of Massachusetts
Office of the Inspector General

GREGORY W. SULLIVAN
INSPECTOR GENERAL

JOHN W. MCCORMACK
STATE OFFICE BUILDING
ONE ASHBURTON PLACE
ROOM 1311
BOSTON, MA 02108
TEL: (617) 727-9140
FAX: (617) 723-2334

July 23, 2010

Mark Haddad
Town Manager
Town of Groton
173 Main Street
Groton, MA 01450

Dear Mr. Haddad:

As you know, the Office of the Inspector General (OIG) has reviewed the possible misuse of funds obtained by the Town of Groton's Department of Public Works (DPW) from the sale of scrap material. The OIG found that the DPW made unauthorized purchases with these funds, sold and gave away surplus material without following state or local procurement rules, and withheld funds from the Town treasury.

The OIG orally informed the DPW Director and the Town Manager that these actions appear to have violated M.G.L. c.30B – the Uniform Procurement Act, M.G.L. c.268 – the Conflict of Interest Law, municipal finance law, and sound business and control practices. The DPW Director agreed to remedy any practices that led to these OIG findings. The following are the specific OIG findings:

1) Forgoing the deposit of sale proceeds into the Town treasury

On at least two occasions since 2006, a DPW staff member sold scrap metal that had been collected by the DPW. According to the DPW Director, the employee had authorization to sell the scrap metal, purchase amenities for DPW staff with the sale proceeds and to hold excess funds for the future purchase of a television for the DPW.

According to DPW records, the employee received two checks from a local scrap dealer totaling \$2,357.00 for the two sales. The scrap dealer had made the checks payable to the DPW employee and not the Town. According to the scrap dealer, although their records indicated that the material belonged to the "Groton Highway Department," the dealer made the checks payable to the employee "probably" at the employee's request.

The DPW Director stated that he approved of the employee selling the scrap when the "budget was tight." According to receipts provided by the DPW, the DPW and/or the employee who received the funds purchased a *Weber* gas grill (\$336.00), cooking tools for the gas grill (\$30.00), a grill cover (\$16.00), convection oven (\$420.00),

Cuisinart toaster oven (\$110.00), *Krups* coffeemaker (\$100.00), eight cots/folding hammocks (\$400.00), and two – four piece sets of steak knives (\$40.00). Since the employee personally made a number of these purchases and not the Town, the employee paid an additional \$109.00 in sales tax. The DPW Director confirmed that these items had been purchased for the DPW. Based on documents provided by the DPW, the employee had been “holding” \$815.00 in unspent funds for more than two years at the time of the OIG review.

Finding

OIG staff informed the DPW Director and Town Manager that this off-budget withholding and use of funds violates M.G.L. c.44, §53 that requires all funds received be deposited into the treasury. No matter how well intended, municipal employees cannot personally hold public funds for an indeterminate period of time. Cash held by any department should be duly authorized by the Town’s governing body and controlled in a petty cash fund. The Town’s governing body, not the DPW Director, should determine the appropriateness of purchasing grills and other amenities through the DPW budget process, especially “when budgets are tight.”

In addition, a sound business practice is to formally declare on public record an estimated quantity of scrap metal as surplus and to ensure that before a sale is completed, you have determined that the chosen purchaser of the scrap is offering the best price for the scrap. A file on the disposition of the surplus material should reflect the above.

After a discussion with the OIG, the Town Manager and DPW Director agreed to follow proper procurement procedures in accordance with state and local law. Less than a week after the initial OIG inquiry, the DPW Director deposited \$815.00, the funds held formally by the employee, with the Town Treasurer.

2) Bartering with contractors

The DPW Director informed the OIG that a “few years ago” a local contractor offered to “clean up” the DPW yard by taking away “junk” that accumulated over the years including old metal storage tanks, a “trailer filled with garbage” and other items. The DPW Director believed that since the contractor provided the service “for free” that M.G.L. c.30B – the Uniform Procurement Act did not apply.

Finding

The OIG informed the DPW Director that M.G.L. c.30B would still apply in this situation. In the case of the clean-up, there may have been intrinsic value to the “junk” taken away and if the contractor sold these items for a profit then the contractor did not work for “free.” The DPW Director admitted that the contractor may have removed items that had value. As such, it was not in the public interest to permit a contractor to reap this value. The Town must first determine the salvage value of surplus items before proceeding with any disposition of the items in accordance with M.G.L. c.30B.

3) Employee Salvage

The DPW Director stated that he had permitted DPW employees to take old/used vehicle/engine parts for their personal use. The DPW Director explained that the DPW could no longer use these parts and that he admonished employees that these items were for their personal use and not for resale.

Finding

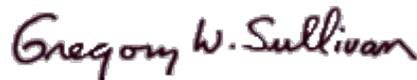
The OIG explained to the DPW Director that M.G.L. c.30B requires disposing of items with a resale or salvage value in accordance with certain procedures depending on dollar value. The OIG also informed the Town that this practice may be a violation of M.G.L. c.268A the conflict of interest law since DPW employees are receiving a benefit as a result of their position that is not available to other Town employees or Town residents. The DPW Director agreed to cease this practice. The OIG recommends that the Town contact the State Ethics Commission to obtain guidance or an official opinion on the matter.

Conclusion

The Town should review its cash collection, procurement and surplus material policies to identify and remedy any control weaknesses that create vulnerabilities for fraud, waste, or abuse of public property or that would undermine the public's confidence in the efficacy of these practices. Soon, on-line training in the basics of M.G.L. c.30B will be available to municipal officials on the OIG website at www.mass.gov/ig. In addition, the OIG offers a manual entitled *Municipal, County, District and Local Authority Procurement of Supplies, Services, and Real Property*, www.mass.gov/ig/publ/30bmanl.pdf on its website. Lastly, the town should ensure that employees have successfully completed the required on-line testing by the State Ethics Commission and should consider requesting additional training from the Commission.

Thank you for your assistance in this matter. If you have any questions or concerns, please do not hesitate to contact Neil Cohen, Deputy Inspector General.

Sincerely,



Gregory W. Sullivan
Inspector General

cc: Peter Cunningham, Chair, Board of Selectmen
Christine Collins, Town Treasurer
R. Thomas Delaney, Director, Department of Public Works
Karen Nober, Executive Director, State Ethics Commission