



Office of the Inspector General

Commonwealth of Massachusetts

Gregory W. Sullivan
Inspector General

Contractor Gifts to Chicopee Electric Light Employees

December 2003

Contractor Gifts to Chicopee Electric Light Employees

This Office issued a letter to Richard J. Kos, Mayor of the City of Chicopee, on December 10, 2003 summarizing findings of fact and law resulting from an extensive documents review by this Office. (See attached letter.) The letter informed Mayor Kos that numerous items of substantial value were bestowed upon the Chicopee Electric Light (CEL) general manager and other CEL employees by Power Line Models, Inc. (PLM), an electric power engineering firm with an office in Hopkinton, MA. The letter also informed Mayor Kos that the state conflict of interest law provides penalties for public officials who accept anything of substantial value from people with whom they conduct official business. Massachusetts Courts and the State Ethics Commission have determined that gifts of “substantial value” are those valued at \$50 or more.

This Office cited several instances of gifts bestowed upon CEL employees from 1998 to 2002. For example, PLM paid for many golf outings for CEL employees, meals for CEL managers, and invitations to the PLM holiday party for CEL employees as well as the Board Commissioners.

In addition, Mayor Kos was informed that the CEL general manager misrepresented to this Office that CEL employees had not accepted items of value from PLM. In fact, the general manager reimbursed PLM for numerous items of value, personally received by him via two personal checks. In addition, PLM also received two letters from the general manager revealing that he accepted items of value from PLM, which he claimed he mistook for “social events.”

The Mayor was also notified that the CEL general manager may have violated the conflict of interest law with regard to PLM’s employment of his children potentially compromising the CEL general manager’s objectivity towards contract matters concerning PLM.

This Office recommended that the Chicopee Mayor take measures to correct these practices and to see that policies are set to ensure that further abuses will no longer occur.



The Commonwealth of Massachusetts
Office of the Inspector General

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December 10, 2003

The Honorable Richard J. Kos
Chicopee City Hall
17 Springfield Street
Chicopee, MA 01013

Dear Mayor Kos:

This letter concerns the conduct of a certain vendor and employees of Chicopee Electric Light (CEL). This Office received information from both the vendor, Power Line Models, Inc. (PLM) and CEL pursuant to a request for documents. The information summarized below indicates that PLM bestowed gifts upon CEL employees including golf outings, expensive meals and other entertainment possibly in violation of M.G.L. c. 268A, the Commonwealth's conflict of interest law. While PLM is the focus of this letter, the concerns outlined herein inure to all CEL vendors. The time period for this limited review spanned from January 1998 through October 2002.

I. Background

Specifically, documents, received by this Office indicate that PLM bestowed numerous items of substantial value upon CEL's general manager and other CEL employees, at a time when PLM was under contract with CEL for professional services. Many gifts to Chicopee employees from PLM were over the \$50 threshold. These gifts included golf excursions, fine dining, invitations to parties and other items, totaling \$34,518.96 over a three-year period. Even if the value of PLM's gifts were less than \$50, the frequency or pattern of the gift giving may be notable in analyzing whether a violation of the conflict of interest law has occurred.

The conduct of CEL employees in instances where gifts from PLM were accepted undermines the integrity of the working relationship between CEL and PLM. Moreover, ratepayers are not assured that objectivity is guiding CEL contracting practices, or whether gift giving and the corresponding personal relationship with PLM has unduly influenced the contracting practices at CEL.

M.G.L. c. 268A, §3(a) states:

“Whoever otherwise than as provided by law for the proper discharge of official duty, directly or indirectly, gives, offers or promises anything of substantial value to any present or former state, county or municipal employee . . . for or because of any official act performed or to be performed by such an employee . . . shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than two years, or both.”

M.G.L. c. 268A, §23(b) states in part:

“No current officer or employee of a state, county or municipal agency shall knowingly, or with reason to know:

(2) use or attempt to use his official position to secure for himself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals.

(3) act in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. . .”

Gifts costing \$50 or more are considered by Massachusetts courts and the State Ethics Commission to be of “substantial value.” For the purpose of the conflict of interest law, the State Ethics Commission has determined the following to be gifts: waived fees, discounts, gift certificates and entertainment.¹ State and municipal vendors who offer such inducements or rewards are subject to penalties under the conflict of interest law.²

II. Findings

Finding 1: The CEL general manager and other CEL employees accepted gifts of substantial value from PLM. PLM’s gifts included golf outings, dining, golf tournaments, and multi-day golf invitationals at private country clubs, dining with and without spouses at restaurants, and attending a PLM holiday party at a private country club for employees and spouses.

The following is a listing of certain PLM sponsored gifts to CEL employees for 1998 through 2000. The totals included gifts to employees of other electric light departments as well. The total for the three- (3) year span was \$34,518.96.

¹ Massachusetts State Ethics Commission pamphlet, “Guide to the Conflict of Interest Law for Municipal Employees.”

² Id.

1998:

On Thursday, March 5th, an unidentified CEL employee dined with a PLM consultant at an undisclosed location. Also in attendance was an employee from another municipal light department. The total charge for the meal paid for by PLM was \$277.69;

On Friday, March 20th, an unidentified CEL employee dined with a PLM consultant at an undisclosed location. Also in attendance was an employee from another municipal light department. The total charge for the meal paid by PLM was \$254.87;

On Thursday, April 9th, the CEL general manager played golf and dined with a PLM consultant at the Sterling Country Club in Sterling, MA. In attendance was the CEL general manager, the PLM consultant, another municipal light plant general manager, and one unidentified person. The cost of the outing paid by PLM was \$350.05;

On Thursday, April 30th, the CEL general manager played golf and dined with a PLM consultant at the Sterling Country Club in Sterling, MA. In attendance was the CEL general manager, the PLM consultant and five other unidentified attendees. The cost of this outing paid by PLM totaled \$626.89;

On Friday, June 28th, the CEL general manager and four other CEL employees were invited to a golf outing at the Brae Burn Country Club, Newton, MA sponsored by PLM. The total non-PLM participants invited to the outing were 91 and the cost of the outing to PLM was \$12,350;

On Wednesday, September 30th, the CEL general manager played golf and dined with a PLM consultant at Sterling Country Club in Sterling, MA. In attendance was the CEL general manager, the PLM consultant, another municipal light plant general manager and one other unidentified person. The cost for this outing paid by PLM was \$353.91; and

On Wednesday, October 28th, the CEL general manager played golf and dined with a PLM consultant at the Sterling Country Club in Sterling, MA. In attendance was the CEL general manager, the PLM consultant, another municipal light plant general manager and one other unidentified person. The cost for this outing paid by PLM was \$324.44.

1998 total of items of value paid by PLM: \$14,537.85.

1999:

On Wednesday, March 31st, a CEL employee dined at the Whistling Swan Restaurant in Sturbridge, MA with a PLM consultant and their two wives. The total for this meal by the PLM consultant was \$363.77;

On Tuesday, May 11th, the CEL general manager dined with a PLM consultant at an undisclosed location. The total charges paid for by the PLM consultant was \$147.75;

On Thursday, August 12th, the CEL general manager dined with a PLM consultant at an undisclosed location. In attendance were the CEL general manager, the PLM consultant and two unidentified persons. The total charge paid by PLM was \$73.56;

On Tuesday, August 24th, the CEL general manager dined with a PLM consultant at an undisclosed location. The total for this meal was \$77.62;

On Wednesday, September 15th, the CEL general manager dined with a PLM consultant at an undisclosed location. The total for cost of this meal paid by PLM was \$48.60;

On Thursday, September 30th, a CEL employee dined at the Cedar St. Restaurant in Sturbridge, MA with a PLM consultant and their two wives. The total cost for this meal paid for by PLM was \$341.12;

On Friday, October 8th, the CEL general manager dined with a PLM consultant at the Sterling Country Club in Sterling, MA. The total cost for this meal paid for by PLM was \$24.88; and

On Tuesday, November 16th, the CEL general manager dined with a PLM consultant at an undisclosed location. The total cost for this meal paid for by PLM was \$46.00.

1999 total of items of value paid by PLM: \$1,123.30.

2000:

On Tuesday, May 2nd, the CEL general manager dined with a PLM consultant at the Sterling Country Club in Sterling, MA. The total for this meal was \$85.35;

On Saturday, June 10th, the CEL general manager golfed and dined with a PLM consultant at the Sterling Country Club in Sterling, MA. The total amount charged to the PLM consultant was \$276.15;

On Sunday, June 11th, an unnamed CEL employee dined and played in a golf tournament with a PLM consultant at the Sterling Country Club, Sterling, MA. The total paid by PLM was \$61.92;

On Wednesday, June 14th, an unnamed CEL employee dined and played golf with a PLM consultant at the Sterling Country Club, Sterling, MA. The total for the meal and golf outing paid by PLM was \$65.32;

On Tuesday, June 20th, the CEL general manager dined with a PLM consultant. The total for the dinner paid by PLM was \$77.62;

On Friday, July 7th, the CEL general manager dined with a PLM consultant the at the Sterling Country Club in Sterling, MA. The total for the meal paid for by PLM was \$33.54;

From Friday, July 14th through Sunday July 16th, the CEL general manager participated in a three-day golf invitational at the Sterling Country Club in Sterling, MA with a PLM consultant. The total charge for the three-day golf outing paid for by PLM was \$1,104.04;

On Tuesday, August 1st, the CEL general manager dined with a PLM consultant. The total for the meal paid for by PLM was \$72.12;

On Thursday, August 17th, an unidentified CEL employee dined with a PLM consultant at the Cedar Street Restaurant in Sturbridge, MA. The total bill paid by PLM for the meal was \$298.33;

On Wednesday, September 6th, an unidentified CEL employee dined with a PLM consultant. The bill paid by PLM for this meal was \$87.14;

On Wednesday, September 20th, an unidentified CEL employee golfed and dined with an employee of another municipal light department and a PLM consultant at the Sterling Country Club in Sterling, MA. The total charged to the PLM consultant's account for the outing and meal was \$323.65;

On Friday, October 20th, an unidentified CEL employee golfed and dined with an employee of another municipal light department and a PLM consultant at the Sterling Country Club in Sterling, MA. The total that was charged to the PLM consultant's expense account for this outing was \$420.04;

On Friday, October 27th, an unidentified CEL employee dined with a PLM consultant at the Sterling Country Club in Sterling, MA. The total charged to PLM was \$118.33;

On Saturday, October 28th, an unidentified CEL employee and a PLM consultant charged beverages to the consultant's expense account at the Sterling Country Club's restaurant in Sterling, MA. The total charged to PLM was \$22.29;

On Wednesday, October 25th, an unidentified CEL employee dined with a PLM consultant at the Sterling Country Club in Sterling, MA. The total for the meal paid by PLM was \$179.71.

On Wednesday, November 1st, an unidentified CEL employee dined with a PLM consultant at an unidentified location. The bill for this meal paid for by PLM was \$89.79;

On Monday, November 27th, an unidentified CEL employee dined with a PLM consultant at an undisclosed location. The bill for this meal was paid by PLM and totaled \$84.59;

On Tuesday, December 5th, an unidentified CEL employee dined with a PLM consultant at an unidentified location. The bill for this meal paid for by PLM was \$108.36; and

In December 2000, the CEL general manager, three CEL employees, three guests, two CEL commissioners and one guest were invited to attend a Christmas party at the Brae Burn Country Club, Newton, MA sponsored by PLM. The cost of the party to PLM was \$15,411.44.

2000 total of items of value paid by PLM: \$18,857.81

This Office calls upon the Mayor to conduct an internal inquiry to determine with certainty who at CEL attended these PLM sponsored events, and whether employees and or members of the CEL Municipal Light Board (Board) reimbursed PLM for the value of such gifts. If reimbursement was made by employees and or Board members, this Office calls upon the Mayor to determine if reimbursements were provided simultaneously or in close proximity to the date of the gift. Further, the majority of the golf excursions occurred during the workweek at a private country club, which is located approximately sixty-eight (68) miles from the CEL lighting plant. In light of these facts, this office suggests that the Mayor determine whether employees appropriately used vacation or personal days for golf outings and whether business travel and or mileage expenses were submitted for reimbursement for the above days.

Finding 2: The CEL general manager misrepresented to this Office that CEL employees had not accepted items of value from PLM and may have violated M.G.L. c. 268A, §6A: “False written reports by public officers or employees.”

M.G.L. c. 268A, §6 states:

“Whoever, being an officer or employee of the commonwealth or of any political subdivision thereof or of any authority created by the general court, in the course of his official duties executes, files or publishes any false written report, minutes or statement, knowing the same to be false in a material matter, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.”

By letter dated October 22, 2002, this Office requested documents from the CEL general manager pertaining to all items of value provided by consultants to any and all CEL employees from January 1998 through October 22, 2002. The CEL general manager’s written response dated November 5, 2002 denied that any such documents existed. The CEL general manager responded as follows to this Office’s request:

- a. all documents identifying the item(s) of value;
CEL general manager’s answer: None.

- b. all documents identifying the name of the contractor representative and consulting firm;
CEL general manager's answer: None.
- c. all documents indicating the name of each recipient who benefited from each item of value;
CEL general manager's answer: None.
- d. all documents indicating the date(s) that the item(s) of value was bestowed;
CEL general manager's answer: None.
- e. all documents indicating the monetary value of the item(s); and
CEL general manager's answer: None.
- f. all memoranda of meetings, internal memoranda, credit card receipts, expense account reimbursement forms, holiday gift lists, notes, records of oral communication, telephone logs, letters and correspondence, whether formal or informal, referring or relating to such item(s) of value.
CEL general manager's answer: None.

Documents received by this Office from PLM indicate that the general manager has withheld records from this Office demonstrating that he accepted items of value from PLM. In fact, the general manager reimbursed PLM for numerous items of value via two personal checks totaling \$1,831.45. Moreover, PLM received two letters dated October 18, 2002 and November 1, 2002 from the general manager revealing that he accepted items of value from PLM, which he claimed he mistook for "social events". These letters and checks were not sent to this Office in the CEL's response dated November 5, 2002. This intentional withholding of documents is unacceptable conduct for a general manager and is disconcerting to this Office.

Finding 3: The CEL general manager may have violated the conflict of interest law with regard to PLM's employment of his children.

CEL's general manager has been the recipient of numerous gifts in excess of \$50 from PLM. PLM has also received numerous, lucrative contracts from CEL totaling approximately \$928,215.61 from 1998 through 2002. In addition, two children of CEL's general manager have been employed by PLM; and the CEL general manager's son presently is a PLM employee. This set of facts creates an appearance of a conflict of interest.

M.G.L. c. 268A, §19 states in part:

“a municipal employee who participates as such an employee in a particular matter in which to his knowledge he, his immediate family or partner, a business organization in which he is serving as officer, director, trustee, partner or

employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest, shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than two years, or both.”

Due to the fact that members of his immediate family receive and have received paychecks from PLM, the conflict of interest law recognizes that the general manager’s objectivity can be compromised when he acts on contract matters with PLM. As such, the conflict of interest law may prohibit the general manager from participating in making contracting determinations involving PLM. The following chart lists the cost to CEL of consulting services with PLM from 1998 through 2002.

Cost of PLM consulting services to CEL from 1998 through 2002³

Service	1998	1999	2000	2001	2002	Total for each Service
General Consulting	\$1,431.97		\$7,147.65	\$10,587.53	\$2,800.88	\$21,968.03
SCADA Engineering Services	\$6,269.40	\$7,652.77	\$46,297.48	\$6,413.14	\$2,674.08	\$69,306.87
Power Delivery Analysis	\$33,189.18	\$39,112.72	\$25,158.12			\$97,460.02
Power Supply Services	\$8,698.50			\$3,585.94	\$941.70	\$13,226.14
Substation 1 4.16kV Breaker			\$33,044.33	\$4,849.13		\$37,893.46
Rate Study	\$2,444.58	\$1,950.48	\$5,043.39	\$6,879.55	\$6,723.71	\$23,041.71
Fire Alarm System Surge Protector	\$9,144.58					\$9,144.58
Substation 6	\$3,947.31					\$3,947.31
115 kV Strategic Partnerships			\$16,573.14	\$59,717.00	\$254,750.06	\$331,040.20
Strategic Partnerships	\$887.28					\$887.28
Strategic Planning			\$4,179.60	\$4,185.32		\$8,364.92
Circuit G Conversion	\$57,285.85	\$8,768.22				\$66,054.07
Circuit H			\$4,040.28			\$4,040.28
NU Negotiations				\$16,823.13	\$9,219.85	\$26,042.98
State Park ROW Distribution				\$6,707.52		\$6,707.52
Front Street Automation	\$35,556.29	\$70,096.39	\$34,226.65			\$139,879.33
Full Integration Analysis	\$26,133.84	\$26,781.08	\$12,122.25	\$4,173.74		\$69,210.91
Total Services 1998-2002	\$184,988.78	\$154,361.66	\$187,832.89	\$123,922.00	\$277,110.28	\$928,215.61

This office calls upon the mayor to investigate the starting dates of when PLM employed the general manager’s children to ensure that the CEL general manager has not participated in any prohibited discussions or recommendations to the Board, and has taken any and all other required precautions on matters pertaining to PLM’s consulting services with CEL.

III. Conclusion

This Office’s review revealed that CEL does not have adequate standards of conduct that encourage employees to maintain the highest level of public confidence in the impartial operations of CEL. This Office recommends that the Board strengthen internal rules and policies pertaining to conduct with vendors by prohibiting the receipt of any gifts by CEL employees. This Office also recommends that the Board directly apprise CEL vendors that CEL employees are prohibited from accepting gifts.

Moreover, this office calls upon the Mayor who appoints the members of the CEL Municipal Light Board to conduct an inquiry into the findings identified by this Office

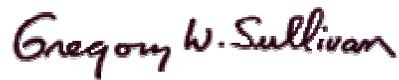
³ Chart information provided to the Office of the Inspector General by CEL.

and herein reported. This Office also requests that the Mayor's Office make available to this Office the findings, recommendations, and conclusions of all internal audits, inquiries, and investigations that result from this letter.

For your review, I have attached Massachusetts State Ethics Commission Fact Sheet for business and entertainment expenses, Massachusetts State Ethics Commission advisory regarding nepotism and a sample code of conduct for public employees written by this Office.

If you have any questions regarding this letter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Gregory W. Sullivan". The signature is written in a cursive, slightly slanted style.

Gregory W. Sullivan
Inspector General

cc: John F. O'Connor, Chairman, Chicopee Municipal Light Board
Chicopee Municipal Light Board
The Massachusetts State Ethics Commission