



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

May 27, 2010

Anthony Sasso, Town Administrator
Town of Marblehead
Abbot Hall
188 Washington Street
Marblehead, Massachusetts 01945

RE: Town of Marblehead
Purchase of School Furniture, Fixtures and Equipment (FFE)

Dear Mr. Sasso:

You recently brought to the attention of this Office a procurement by the Marblehead School Department ("School Department"), of approximately \$42,000 of furniture, fixtures and equipment (FFE). You questioned whether the procurement was properly authorized. This Office requested that the School Department provide it with a copy of all information pertaining to the procurement. Based on our review of the file, it is this Office's opinion that the FFE was not procured in accordance with M.G.L. c.30B.

The FFE purchase came to the attention of the Superintendent of Schools on account of a purchase order addressed to Worthington Direct, Inc., a supplier of school, church, preschool and office furniture products, and signed by the School Department Business Manager. Worthington Direct offers furniture products from many manufacturers. One of the manufacturers, Virco Mfg. Corp., was also a vendor on a statewide contract administered by the Operational Services Division.

The School Department issued a purchase order for FFE to Worthington Direct and, on December 21, 2009, the supplies were delivered, whereupon Worthington Direct invoiced the School Department in the amount of \$42,098.10. A question arose about the appropriate account to which the invoice amount should be charged. This Office understands that the invoice has not yet been paid.

Chapter 30B applies to "every contract for the procurement of supplies... by a governmental body." M.G.L. c.30B, §1(a). As the value of supplies purchased was \$25,000 or more, the School Department was obliged to use a competitive procurement

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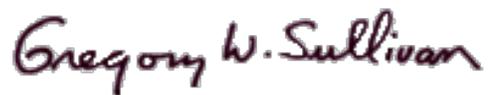
process under M.G.L. c.30B, §5 or M.G.L. c.30B, §6. This Office understands that no procurement process was used, and no evidence of such a process is to be found in the information provided. While purchases made from a statewide contract are deemed to comply with M.G.L. c.30B, no purchase was in fact made by the School Department directly from a statewide contract.

Only purchases made from a vendor pursuant to a statewide contract are deemed to comply with M.G.L. c.30B. M.G.L. c.30B, §1(c). Because the School Department did not purchase from Virco, the entire procurement was subject to M.G.L. c.30B.

Contracts entered into in violation of M.G.L. c.30B are invalid. Inasmuch as the School Department failed to follow the provisions of M.G.L. c.30B, the contract between the School Department and Worthington Direct is invalid and no payment can be made for the FFE. M.G.L. c.30B, §17(b). You should consult town counsel to ascertain the School Department's rights with respect to any FFE still in the School Department's possession.

Please contact this Office with any questions.

Sincerely,

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

Gregory W. Sullivan
Inspector General

cc: Dr. G. Paul Dulac, Superintendent of Schools
John McGinn, Finance Director
Patrick J. Costello, Esquire
Mary Pichetti, MSBA Director of Capital Planning