


From: Matthew J. Costa mcosta@taunton-ma.gov 
Subject: Fw: Letter from the Office of the Inspector General dated February 15, 2022
Date: February 18, 2022 at 6:28 PM



To: Kelly A. Dooner kdooner@taunton-ma.gov, Duarte, Phillip PDuarte@taunton-ma.gov, Estelle Borges eborges@taunton-ma.gov, McCaul, John JMcCaul@taunton-ma.gov, Pottier, David DPottier@taunton-ma.gov, Coute, Chris CCoute@taunton-ma.gov, Sanders, Barry BSanders@taunton-ma.gov, Lawrence J. Quintal lquintal@taunton-ma.gov, Postell, Jeff JPostell@taunton-ma.gov
Cc: Shaunna O'Connell soconnell@taunton-ma.gov, David Gay dgay@taunton-ma.gov, Theresa Garcia tgarcia@taunton-ma.gov

Dear Members of the Municipal Council:

This is in regard to the letter of Neil Cohen, Director of the Regulatory and Compliance Division of the Office of the Inspector General (OIG) dated February 15, 2022. Said letter is addressed to me and copies were received by Mayor Shaunna O'Connell and the Members of the Council.

In the letter Mr. Cohen asserts that the letter to the Council from myself and Attorney David Gay dated February 10, 2022 contains mischaracterizations of communications between his office and the Law Department, and he requests that we "correct the record". To address this we are attaching all of the following documents:

1. Opinion letter dated February 8, 2021 (re: Applicability of Mass. Special Act of the Legislature Chapter 362 of the Acts of 1996)
2. Letter to Mark Zglobicki, Associate General Counsel, OIG dated 4/1/2021;
3. Letter of Glenn A. Cunha, Inspector General, dated 6/4/2021;
4. Email to OIG dated 7/2/2021;
5. Letter from Neil Cohen, Director, Regulatory and Compliance Division, OIG 7/30/2021;
6. Letter to Neil Cohen, Director, Regulatory and Compliance Division, OIG 10/5/2021;
7. Letter from Neil Cohen, Director, Regulatory and Compliance Division, OIG 2/3/2022

The RFP is available on the City website: <https://www.taunton-ma.gov/department-public-works/bids/request-proposals-%E2%80%99Crfp%E2%80%9D-provision-municipal-wastewater-residuals>. Because accessing the RFP documents requires registration on the website, I am also attaching those documents to this email.

We had previously not released the letter from the OIG of 6/4/2021, because at the time it was issued confidentially by the OIG to the Law Department. However, as the OIG referenced said communication in its letter to you, and asked us to "correct the record", we are including it with the attachments.

For the reasons stated herein we stand behind our letter to the Council of February 10, 2022.

In the third paragraph of our letter, we indicated that we "agreed to request proposals as suggested by the Inspector General's office". This is an accurate statement. The chronology on this issue is as follows: the initial legal analysis was that it was not clear that a request for proposals (RFP) under the Uniform Procurement Act was required for the siting of a

sludge disposal facility in Taunton, for the reasons explained in the letter of 2/8/2021; on 4/1/2021 we voluntarily provided information to the OIG, to facilitate its review of this question; on 6/4/2021 the OIG advised that an RFP was needed; and on advice of the Law Department the City accepted the OIG's position, and prepared and issued an RFP. We frankly do not understand why the OIG challenges us after we agreed with the OIG that an RFP was needed, which is acknowledged in our letter.

In the fourth paragraph of our letter we indicated that "the Inspector General's office has recently reviewed the steps we have taken with the Request for Proposals and the response submitted by Aries Taunton, LLC and did not find any deficiencies with the same." Here, again, we invite the Council to look at the record: On July 30, 2021, the OIG issued a letter to the Law Department advising that in its opinion the RFP did not comply with M.G.L. chapter 30B in certain respects. On October 5, 2021 the Law Department sent a four-page letter responding to the OIG and specifically disputing the OIG's analysis on this issue, with citations to supporting legal authorities. Subsequently, the Law Department forwarded to the OIG the proposal that had been received from Aries (the only response to the RFP) at the OIG's request. On Friday, January 28, 2022, I attended a video conference with officials from the IG's office, in which the OIG provided constructive advice regarding the proposal of Aries and matters to consider in negotiations with Aries -- this was a positive and helpful meeting. Said video conference was followed by the OIG's letter of 2/3/2022 which is clearly positive and constructive in tone and substance, and acknowledges that the City would be going forward with the proposal it received under the RFP.

It should be noted that the only communications we have had with the OIG since it was provided with a copy of the Aries response to the RFP were the aforementioned video conference and the letter of 2/3/2022. The OIG's letter of 2/3/2022 specifically contemplates the City going forward with "this complex multi-year contract", offered its assistance should we have any questions, and was generally supportive and cordial in nature. We were entirely justified and accurate that this was a positive communication which accepted that the City would proceed with the proposal that it received pursuant to the RFP (which was the same proposal that had previously been presented to the Council and was the subject of the documents which were attached to our letter of 2/10/2022).

The OIG requested that we "correct the record" and we have provided the actual record to you in the attachments to this communication. We deny that any mischaracterization was made in our letter of 2/10/2022.

Respectfully submitted,

Matthew J. Costa, City Solicitor



IG



Complete RFP