



# Office of the Inspector General

## Commonwealth of Massachusetts

**Glenn A. Cunha**  
Inspector General

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# 2014 Annual Report

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## *Introduction*

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The Office of the Inspector General (“Office”) is an independent agency charged with preventing and detecting fraud, waste, and abuse in the use of public funds and public property. Created in 1981, it was the first state inspector general’s office in the country. The Legislature created the Office at the recommendation of the Special Commission on State and County Buildings, a legislative commission that spent two years probing corruption in the construction of public buildings in Massachusetts.

In keeping with its broad statutory mandate, the Office investigates allegations of fraud, waste, and abuse at all levels of government; reviews programs and practices in state and local agencies to identify systemic vulnerabilities and opportunities for improvement; and provides assistance to both the public and private sectors to help prevent fraud, waste, and abuse in government spending. By legislative mandate, the Office also reviews a wide range of public design and construction projects, methods, and practices, as well as public land transactions, to ensure that they comply with state law and protect the public interest. In addition, the Office provides guidance to local government officials on issues that arise under the Uniform Procurement Act, M.G.L. c. 30B, which governs the purchase and disposition of supplies, services, equipment, and real property by municipalities and other public entities. The Office also educates public and private employees through its Massachusetts Certified Public Purchasing Official training program.

Each year, the Office receives numerous complaints alleging fraud, waste, or abuse in the use of local, state, and federal funds and property. The Office evaluates each complaint to determine whether it falls within the Office’s jurisdiction and whether it merits action. Some complaints lead to extensive investigations, some are referred to other agencies, and others are closed if a preliminary inquiry fails to substantiate the allegations.

When conducting an investigation or review, the Office has the authority to subpoena records, interview witnesses, and take testimony under oath. At the completion of an investigation, review, or other project, the Office may issue a letter or report detailing findings, identifying corrective actions, and outlining recommendations to prevent future problems. After issuing a report, the Office may maintain an oversight role to ensure that the agency or municipality implements a suitable corrective action plan and takes any other measures called for in the report. The Office also reports suspected criminal activity to the appropriate authorities, including the Massachusetts Attorney General’s Office and the U.S. Attorney’s Office. In addition, the Inspector General meets regularly with the Inspector General Council to discuss the Office’s activities.

In 2014, the Office responded to approximately 650 complaints and conducted investigations and reviews in such areas as education, health care, public benefits, criminal justice, housing, energy, public construction, social services, procurement, and transportation. The Office’s work led to state and federal indictments, legislative initiatives, and reforms and policy changes at the state and local levels.

For example, the Office investigated the spending practices of the then-president of Westfield State University (“WSU”), Evan S. Dobbelle, which uncovered tens of thousands of dollars of

personal spending on WSU credit cards, lavish travel, and other abuses of public funds. As a result of the Office's investigation, the Attorney General's Office filed a civil suit against Dobelle pursuant to the Massachusetts False Claims Act, M.G.L. c. 12, §§ 5B-50, seeking damages, civil penalties, costs, and attorneys' fees. The Office has provided assistance in prosecuting the lawsuit. Also in 2014, the Office issued its report on the Forensic Drug Laboratory at the William A. Hinton State Laboratory Institute ("Drug Lab"). The Office's Hinton State Laboratory Investigation Team received the Manuel Carballo Governor's Award for Excellence in Public Service for its work on the report.

Additionally, the Office's efforts resulted in settlements and the imposition of fines totaling \$1.4 million. The Office also identified \$21.7 million in potential cost savings for the Commonwealth.<sup>1</sup> In fiscal year 2015, the Office was appropriated \$3.2 million. This means that for every dollar that the Legislature appropriated to the Office, the Office identified or helped recoup seven dollars in savings and recoveries for the Commonwealth and other public entities.

Also during 2014, the Office provided technical assistance to state and local government officials regarding Massachusetts' public procurement laws, trained over 1,300 participants in procurement laws and related issues, and responded to approximately 1,375 inquiries about public bidding laws. The Office continued to participate in the development of policies and procedures related to the Commonwealth's public design and construction laws, reviewed public land transactions, and provided input on over 100 pieces of legislation.

Furthermore, in response to a legislative mandate for the Bureau of Program Integrity, the Office performed an extensive review of the Department of Transitional Assistance ("Department"). As required by the Legislature, the Office studied the business process by which the Department determines eligibility for benefits programs and identifies possible benefits fraud. The Office also analyzed the management and operational structures supporting these processes. The Office offered numerous recommendations for change, which the Department has begun implementing.

Similarly, the Office's Internal Special Audit Unit ("ISAU") identified potential cost savings through its comprehensive review of MassDOT's fleet vehicle operations. The ISAU's review also identified several areas in which MassDOT should improve its internal controls and oversight, as well as instances in which employees were not using state vehicles appropriately.

Finally, the Office issued health care reviews regarding the Massachusetts Medicaid program and the Health Safety Net. The Office determined that the Massachusetts Medicaid program pays for health care that should be covered under noncustodial parents' commercial health insurance. The Office also found that a small percentage of Health Safety Net users were receiving health care while simultaneously claiming the religious exemption from the health insurance mandate, which contravenes the state mandate. Also in 2014, the Office began reviewing how MassHealth, which administers the Massachusetts Medicaid and the Health Safety Net programs, is addressing the needs of "super-utilizers" of the health care system. Super-utilizers are a small number of individuals who utilize a large amount of health care resources. The Office also began examining the state's payment of prescriptions for certain of

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<sup>1</sup> This figure includes \$17.5 million of cost savings for the Commonwealth every year. Consequently, the total potential savings is greater than \$21.5 million.



the Drug Enforcement Agency's Schedule II pharmaceuticals ("Schedule II drugs"). The Office is assessing any trends that indicate fraud, waste, or abuse in the prescribing and payment of Schedule II drug claims.

Further details about the activities summarized above, as well as the results of additional investigations, reviews, and other projects, are set forth in the rest of this report.

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## *Structure of the Office*

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The Office is organized into seven divisions: Administration and Finance; Audit, Oversight, and Investigations; the Bureau of Program Integrity; the Internal Special Audit Unit; Legal; Policy and Government; and Regulatory and Compliance.

The **Administration and Finance Division** provides vital support to the entire Office by managing the Office's human resources, procurement, finances, case management system, and information technology.

The **Audit, Oversight, and Investigations Division** ("AOI Division") investigates allegations of criminal and civil misconduct in the use of public funds and public property. In this role, the AOI Division receives, reviews, and processes all complaints addressed to the Office. The AOI Division also investigates potential criminal and civil violations of laws that arise from a variety of sources, including anonymous tips; information developed during the course of other reviews and activities; and requests for assistance from other investigative agencies, including local authorities, federal agencies, the state police, and the Massachusetts Attorney General's Office. Overall, the Office receives approximately 600 complaints from the public annually. In some instances, these complaints lead the Office to conduct comprehensive investigations, while in other instances the Office may forward the complaint to the appropriate oversight, regulatory, or prosecutorial agency. The Office forwards complaints to other agencies if, for instance, a preliminary investigation reveals that the complaints are outside of the Office's jurisdiction.

When investigations reveal potential criminal conduct, the AOI Division often joins efforts with other law enforcement agencies – such as the FBI, the state police, federal inspectors general, and local police departments – as well as with prosecutorial agencies, including the Attorney General's Office, the U.S. Attorney's Office, and local district attorneys' offices. The AOI Division works on matters involving potential civil actions either directly through the affected municipality or in conjunction with the Attorney General's Office. The AOI Division also alerts the State Ethics Commission to potential ethics violations, such as self-dealing and conflicts of interest. At any given time, the Division may be investigating allegations of public corruption or other wrongdoing in a wide array of public sectors, such as energy, affordable housing, social services, public works, construction, public advertising, transportation, and education.

Additionally, the AOI Division focuses on opportunities to prevent and detect fraud, waste, and abuse by recommending improvements to internal and financial controls. The AOI Division also provides information through the release of public advisories and letters to assist state agencies and municipalities identify risks and prevent the misuse of taxpayer dollars.

The **Bureau of Program Integrity** ("Bureau") monitors the quality, efficiency, and integrity of public benefits programs administered by the Executive Office of Health and Human Services ("EOHHS"). Its responsibilities include preventing, detecting, and correcting fraud, waste, and abuse; reviewing the intake procedures EOHHS uses to determine whether individuals are eligible for benefits; assisting EOHHS agencies to develop new intake procedures and regulations; and coordinating data sharing with other state agencies.

The **Internal Special Audit Unit** (“ISAU”) monitors the quality, efficiency, and integrity of the Massachusetts Department of Transportation’s (“MassDOT”) operating and capital programs. As part of its statutory mandate, the ISAU seeks to prevent, detect, and correct fraud, waste, and abuse in the expenditure of public and private transportation funds. The ISAU is also responsible for examining and evaluating the adequacy and effectiveness of MassDOT’s operations, including its governance, risk-management practices, and internal processes.

The **Legal Division** provides essential legal support and advice to the Office. Members of the Division represent the Office in state and federal court on issues that include enforcing the Office’s subpoena powers and defending against attempts to obtain the Office’s confidential and statutorily protected information. The Division also both leads and assists with investigations.

The **Policy and Government Division** oversees the Office’s policy, health care, and legislative initiatives. Since 2004, the Legislature has mandated that the Office oversee and examine practices in Massachusetts hospitals, including those practices related to the care of the uninsured. And since 2011, the Legislature has also directed the Office to study and review the Massachusetts Medicaid program. The Division also examines programs, policies and practices – especially at the state level – to identify system-wide vulnerabilities and opportunities for improvement.

In addition, the Division participates in the development of policies and procedures related to the Commonwealth’s public design and construction laws. The Division works with state agencies and authorities throughout the Commonwealth to establish best practices in public construction. Each year, the Division reviews certain public design and construction projects, methods, and practices, as well as a variety of public real property transactions, to ensure that the public’s interests are adequately protected. Finally, during each legislative session, the Division participates in the legislative process by reviewing and commenting on numerous pieces of legislation, meeting with and providing guidance to legislators and municipalities, and responding to requests from the Governor’s Office to review proposed legislation before it is signed into law.

The **Regulatory and Compliance Division** manages the Office’s educational initiatives, including the Massachusetts Certified Public Purchasing Official (“MCPPO”) program, and provides guidance on public procurement matters to state and local officials. In Massachusetts, public purchasing officials are responsible for procuring the supplies, services, and facilities required to provide public services and materials to their communities. These procurements involve considerable expenditures of public funds. In addition, purchasing officials are responsible for disposing of surplus supplies and real property, and ensuring that the jurisdiction receives the best value in return. As a result, it is vital that state and local officials understand the procurement processes and comply with all applicable legal requirements.

To meet this vital need, the Regulatory and Compliance Division provides training and professional development through the MCPPO program, publishes manuals and a quarterly *Procurement Bulletin*, and offers a hotline to respond to inquiries and complaints concerning the public procurement of supplies, equipment, services, and real estate. The Division also provides extensive technical assistance to state and local government officials regarding the Commonwealth’s public procurement laws. The Division interprets and formulates policies on

the Uniform Procurement Act, M.G.L. c. 30B (“Chapter 30B”), which governs public purchasing by municipalities and other public entities. The Office also offers specialized training to agencies, municipalities, and other organizations concerning procurement principles and fraud prevention practices. Finally, the Division provides important feedback to the Attorney General’s Office concerning municipal bylaws and charter amendments to ensure the proposed bylaws and amendments comply with Chapter 30B.

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## ***The Recovery of Funds, Imposition of Fines, and Identification of Potential Savings***

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One of the Office’s great strengths is its ability to evaluate the propriety of public expenditures by conducting detailed analyses of financial transactions, reviewing the related accounting and financial reporting, and identifying overpayment and inappropriate use of funds. Often, the Office’s efforts result in agencies or municipalities recovering funds that properly belong to them. These recoveries may be in the form of settlements, negotiated agreements, or court action. The Office also conducts reviews to identify potential cost savings for public entities. Moreover, the Office’s referrals, reviews, and investigations may lead to the imposition of fines and civil penalties against individuals or organizations.

In calendar year 2014, the Office’s investigations and reviews resulted in \$1.4 million in settlements and restitution, as well as the identification of \$21.7 million in potential cost savings.<sup>2</sup> In fiscal year 2015, the Office was appropriated \$3.2 million. This means that for every dollar that the Legislature appropriated to the Office, the Office identified or helped bring in seven dollars in savings and recoveries for the Commonwealth and other public entities. The tables below summarize these recoveries, fines, and potential cost savings. Further details of the cases represented in these tables appear throughout the rest of this report.

<b>Recoveries and Fines</b>	
<b>Investigation or Review</b>	<b>Recovery or Fine</b>
Settlement: Verizon New England	\$1,300,000
Restitution: Former Facilities Director for Two Non-Profit Organizations	\$143,000
Fine: Former Executive Director of the Chelsea Housing Authority	\$3,000
Restitution: Former President of the Tenant’s Association for the Quincy Housing Authority	\$1,600
<b>Total: \$1,447,600</b>	

Table 1.

<b>Potential Cost Savings Identified</b>	
<b>Investigation or Review</b>	<b>Cost Savings</b>
MassHealth: Health Insurance Coverage Through Noncustodial Parents’ Commercial Health Insurance	\$17,500,000 per year
MassDOT: Fleet Vehicle Operations	\$4,246,062
<b>Total: \$21,746,062<sup>3</sup></b>	

Table 2.

<sup>2</sup> This figure includes \$17.5 million of cost-savings for the Commonwealth every year. Consequently, the total potential savings is greater than \$21.5 million.

<sup>3</sup> See the previous footnote.

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## ***Investigation of the Forensic Drug Laboratory at the William A. Hinton State Laboratory Institute***

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In March 2014, the Office issued its report on the Forensic Drug Laboratory at the William A. Hinton State Laboratory Institute (“Drug Lab”). The Office conducted a top-to-bottom review of the Drug Lab after one of the chemists admitted to tampering with drug evidence results, raising serious questions about the integrity of the testing performed at the Drug Lab. The Office’s comprehensive review found that chronic managerial negligence, inadequate training, and a lack of professional standards created the environment that allowed the chemist to commit her crimes. The report concluded with recommendations highlighting the importance of accreditation, chemist training, proper quality controls, and better designed security practices. The Office’s recommendations have brought awareness to the forensic community about how to better safeguard forensic laboratories from encountering this type of systemic failure.

Since the report was issued, the Office has continued to work to identify drug evidence results potentially affected by the failures at the Hinton Drug Lab. The Office has reviewed several thousand drug samples and is working with an independent, out-of-state laboratory to have a small subset of those samples retested. The Office will issue a supplemental report to provide retesting results.

In 2014, Governor Deval Patrick awarded the Office’s Hinton State Laboratory Investigation Team the Manuel Carballo Governor’s Award for Excellence in Public Service for its work on the report. The Commonwealth’s Performance Recognition Program recognizes the outstanding contributions of individuals and groups of state employees who play a major role in the successful delivery of quality services to the citizens of Massachusetts. The Manuel Carballo Governor’s Award for Excellence in Public Service is the Commonwealth’s highest honor for public employees. A special Selection Committee reviews nominations and makes recommendations to the Governor. The committee is comprised of the Speaker of the House of Representatives, the President of the Senate and community leaders.

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## ***Audit, Oversight, and Investigations Division***

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As previously discussed, the Audit, Oversight, and Investigations Division is responsible for investigating possible criminal and civil misconduct in the use of public funds and property, as well as for recommending improvements to internal and financial controls to prevent fraud, waste, and abuse in the use of government assets. During the past year, the Division responded to approximately 650 complaints from public employees, private citizens, businesses, municipalities, and other public entities. The Division also investigated and reviewed a wide range of alleged wrongdoing, including public corruption, fraud, waste, bid rigging, self-dealing, embezzlement, and theft. The Division's work crossed all areas of government, including energy, affordable housing, social services, public works, employment, and education.

Below is a representative sample of the Division's investigations from 2014.

### **Education**

*Westfield State University: Review of Spending Practices by Former Westfield State University President Evan S. Dobbelle*

In July 2013, the Office reviewed the spending practices of the then-president of Westfield State University ("WSU"), Evan S. Dobbelle. The Office launched this review in response to allegations that Dobbelle had extensively used WSU credit cards for personal purchases, spent extravagantly on travel, and financially crippled the Westfield State Foundation ("Foundation"), a not-for-profit affiliated with the University.

The Office also reviewed whether Dobbelle's extensive travel had a legitimate WSU-related purpose and whether Dobbelle had given WSU's Board of Trustees an accurate and complete account of his activities.

The Office found that:

- Dobbelle knowingly and willfully violated WSU and Foundation policies by engaging in the frequent and substantial use of University and Foundation credit cards for personal expenses. The Office has identified tens of thousands of dollars in additional personal charges beyond the \$85,000 that Dobbelle admitted to charging during his nearly six-year tenure at WSU.
- Dobbelle repeatedly submitted documents portraying personal spending as having a WSU-related purpose.
- Dobbelle repeatedly made false or misleading verbal and written statements to WSU's Board of Trustees to justify his improper actions and wasteful spending.
- Dobbelle received a significant unwarranted financial benefit from his personal use of University and Foundation credit cards. By putting personal charges on WSU-related credit cards, he avoided interest charges that would have accrued on his personal credit cards. He also collected airline and hotel points and miles worth thousands of dollars in his personal rewards accounts from his WSU-funded travel.

- Dobelle engaged in improper and irresponsible conduct in connection with a 2013 trip to Cuba by instructing ineligible travelers, including family members and friends, to falsely assert that they were “adjunct faculty” or “assistant athletic coaches” at WSU.
- Dobelle’s decision to lead a 10-person WSU/Foundation trip to Asia and his management of a campus speaker series financially damaged the Foundation and, ultimately, the University while providing little measurable benefit to WSU.
- Dobelle engaged in similar spending practices at his prior positions as president of the University of Hawaii and president of the New England Board of Higher Education.
- Dobelle routinely violated University policy regarding business meals by failing to identify the meal’s University-related purpose and by purchasing alcoholic beverages.
- Dobelle used Foundation funds without authorization.
- Dobelle used University personnel and resources for personal purposes.
- Dobelle purchased two Kindles, a digital camera, and a laptop computer with University funds, but the University has never had possession of this equipment. WSU requested that Dobelle return this equipment but, to the Office’s knowledge, the equipment remains with Dobelle.

The Office concluded that Dobelle knowingly disregarded University policies, misled WSU’s Board of Trustees, abused his authority, exploited public resources for his personal benefit, and violated the public trust.

The Office identified several ways that WSU and other public institutions of higher education can improve their internal controls, financial safeguards, and board oversight to protect university funds and assets from fraud, waste, and abuse in the future. The Office recommended establishing an internal audit office reporting to the board of trustees, creating a formal process for the board of trustees to oversee the president’s expenses, centralizing travel planning, reducing the number of university credit cards, switching to a system of expense reimbursements and procurement cards, clearly defining the relationship between the university and the foundation, and adopting a policy requiring that all university-related email communications be conducted using university email accounts.

Also, the Office recommended that the Department of Higher Education expand its trustee training program and make state university budgets more transparent to the public. As a result of these recommendations, the Board of Higher Education, together with the Office, the State Ethics Commission, and the Attorney General, successfully launched an expanded training program for trustees in early 2015. See page 38 for additional details about this training program.

Further, in August 2014, the Attorney General’s Office brought an enforcement action pursuant to the Massachusetts False Claims Act, M.G.L. c. 12, §§ 5B-50, against Dobelle. The Attorney General’s lawsuit seeks damages, civil penalties, costs, and attorneys’ fees. The Office has provided assistance in prosecuting the lawsuit.

### *Merrimack Special Education Cooperative: Lobbyist Indicted for Pension Fraud*

Following a joint investigation by the Office and the Attorney General's Office, a Suffolk County grand jury indicted former lobbyist Richard McDonough in connection with his application for and receipt of a state pension. McDonough's pension eligibility was based on his claim that he worked full-time at the Merrimack Special Education Collaborative (MSEC), a public entity, from 2003 to 2008. During the years McDonough was listed on MSEC's payroll as a salaried, full-time employee, he was earning up to \$1.1 million a year as the principal of his lobbying firm, McDonough Associates. McDonough's lobbying clients included the Merrimack Education Center (MEC), a private non-profit corporation associated with MSEC.

The grand jury indicted McDonough on the charges of presenting a false claim (one count) and procurement fraud (one count). Investigators from the Office continue to assist in the prosecution.

### **Public Safety**

#### *Boston Fire Department: District Chief Indicted on Procurement Fraud and Larceny Charges*

The Office helped lead a joint investigation with the Attorney General's Office, the Massachusetts State Police, and the Boston Police Department that resulted in the indictment of Boston Fire Department District Chief Edward A. Scigliano IV. On November 13, 2014, a Suffolk County grand jury charged Scigliano with five counts of procurement fraud and five counts of larceny.

According to the indictment, between 2008 and 2011, Scigliano schemed to enrich himself by illegally diverting funds that vendors owed to the City of Boston. In one scheme, Scigliano allegedly induced a fire truck supplier to pay credit balances owed to the City directly to him. He also allegedly directed the fire truck supplier to pay more than \$32,000 directly to his personal credit card account, claiming that the fire commissioner had authorized the payments.

In a second scheme, Scigliano allegedly used fire department purchase orders to obtain \$14,000 in items for his personal use, including a 52-inch, high-definition television; a living room set; an elliptical exercise machine; and numerous gift cards. Investigators from the Office continue to assist in the prosecution.

### **Telecommunications**

#### *Verizon New England Inc.: Settlement with the State for More than \$1.3 Million*

In 2014, Verizon New England Inc. ("Verizon") paid more than \$1.3 million to settle allegations that the firm had overcharged state agencies for telecommunications services between September 2006 and October 2012. The Office lent its expertise to the Attorney General's Office in investigating this case.

Verizon's state contract requires it to provide services for specific, agreed-upon rates. The settlement resolved a lawsuit filed in Hampshire Superior Court alleging that Verizon violated its contract by overcharging state agencies for certain services. In addition to the \$1.3 million

Verizon paid to the state, the settlement requires Verizon to refund cities and towns affected by the alleged overcharging.

This investigation followed an earlier Office investigation that led to another Verizon settlement. In a 2011 settlement, Verizon refunded \$1.5 million to cities and towns and paid \$800,000 to the state.

## **Statewide Contracts**

### *The State's Use of Temporary Staffing Services: Update*

In December 2013, the Office issued a report on its review of how state agencies use the state's contract for temporary help services. Under the contract, state agencies pay temporary staffing companies to provide temporary employees, who are supposed to fill short-term needs, such as temporary administrative support.

The Office found that some agencies used the temporary help services contract to fill long-term operational roles, rather than to satisfy short-term staffing needs created by illnesses, family leaves, or personnel moves. The Office also determined that agencies used the contract to bypass limits imposed by the Executive Office of Administration and Finance ("ANF") on the number of permanent employees the agencies could hire; this limit is one of ANF's budgetary control measures. In addition, the Office found that some state agencies had arranged to pay certain temporary employees for holidays, sick days, or other leave in violation of the state contract for temporary help services.

After the report's release, the state's Human Resources Division adopted the Office's recommendations and announced new policies to end long-term temporary placements. In 2014, moreover, the Operational Services Division awarded a new statewide contract for temporary staffing services that incorporated many of the Office's recommendations, such as fostering competition among subcontractors to get better pricing. The Office also recommended that the state receive better vendor prices for longer-term placements. Consistent with the Office's recommendation, the new state contract contains a tiered pricing structure.

## **Housing**

### *Chelsea Housing Authority: Additional Sentencing for Former Executive Director Michael McLaughlin*

On June 20, 2014, Michael McLaughlin, the former executive director of the Chelsea Housing Authority, received a one-year sentence in federal prison after pleading guilty to conspiring to defraud the United States. United States District Court Judge Douglas Woodlock also fined McLaughlin \$3,000.

The Office investigated this case with the U.S. Attorney's Office and the U.S. Department of Housing and Urban Development ("HUD"). The investigation found that between 2007 and 2011, McLaughlin conspired with two co-defendants to defeat the purpose and effectiveness of federally-mandated inspections of the Chelsea Housing Authority. Specifically, McLaughlin and his co-conspirators obtained advanced notice of which apartment units would be inspected; this

allowed McLaughlin to ensure that those units were fully repaired, thereby deceiving the inspectors about the overall condition of the housing authority and defeating the purpose of the inspections.

This case followed the Office's 2013 probe, which resulted in McLaughlin's conviction in federal court for falsely reporting his salary to HUD and the Massachusetts Department of Housing and Community Development. As a result of that investigation, McLaughlin was sentenced to 36 months in prison for falsely reporting his salary in annual budgets required by HUD.

#### *Marshfield Housing Authority: Improper Activity by Former Maintenance Supervisor*

The Office investigated allegations that a maintenance supervisor at the Marshfield Housing Authority ("MHA") misused a MHA credit card, misappropriated MHA assets and resources, inaccurately reported a worker's compensation claim, and violated the state's conflict-of-interest laws. The maintenance supervisor resigned shortly after these allegations surfaced.

The Office found evidence that the maintenance supervisor charged personal expenses on MHA's credit card. The investigation revealed, for instance, that the vast majority of the supervisor's credit card use occurred at gas stations, service stations, and convenience stores. While the supervisor was authorized to use the credit card to fuel MHA's pickup truck, the evidence indicated that the charges were not for fuel. The supervisor also used the credit card at liquor stores, grocery stores, and other locations near a property that he owned in Plymouth.

The Office could not fully substantiate the allegations of asset misappropriation because of MHA's poor recordkeeping. However, the review revealed internal control weaknesses at the MHA, which made the organization vulnerable to theft and other misuse of its assets. For example, the MHA did not require management approval to purchase or dispose of property (such as heavy equipment), and it did not have an appropriate system in place to keep track of its property.

Further, the maintenance supervisor filed a worker's compensation claim despite MHA records indicating that he sustained the injury on a date recorded as a vacation day. The claimant received approximately \$16,000 in worker's compensation benefits for this inquiry. Finally, the former maintenance supervisor reportedly received personal loans from two MHA executive directors, MHA staff, and MHA tenants. These loans could violate the state's conflict-of-interest laws.

In October 2014, the Office provided its findings and recommendations to MHA's Board of Commissioners ("Board"). The Office recommended that the Board conduct a thorough credit card review, improve its credit card policies, adopt stronger asset management procedures, and consult with the State Ethics Commission to determine if the supervisor violated any conflict-of-interest laws.

In March 2015, MHA submitted a corrective action plan, approved by the Board, to the Office. The plan includes implementation of formal credit card and disciplinary policies, increased scrutiny of credit card purchases, strengthening of asset management procedures, and conflict-of-interest laws training for MHA staff.

*Quincy Housing Authority: Larceny Charges Against Former President of the Tenant's Association*

The Quincy District Clerk Magistrate issued a criminal complaint against Edward Smelcer, the former president of the Harborview Residents' Committee, Inc. ("HRCI") and a former tenant of the Quincy Housing Authority ("QHA"). HRCI is the tenant's association for the QHA.

The complaint charged Smelcer with two counts of larceny over \$250, one count of larceny by false pretenses and three counts of larceny under \$250, in violation of M.G.L. c. 266, § 30(1), and M.G.L. c. 266, § 34. The charges stemmed from an investigation by the Inspector General's Office, which uncovered evidence that Smelcer used his position as HRCI's president to steal over \$3,100 in funds that were supposed to be used to help his fellow housing authority residents. The investigation revealed that Smelcer took \$1,300 in cash from an HRCI savings account and \$940 in cash withdrawals using an HRCI debit card. He also used HRCI's debit card to buy gasoline (\$564.07), purchase an airline ticket (\$141.90) and pay veterinary bills (\$241.56).

On March 20, 2015, Smelcer pled to sufficient facts to one count of larceny over \$250 before Judge Franco Gobourne in Quincy District Court. Smelcer must pay \$1,693.46 in restitution to HRCI within three months. Judge Gobourne also ordered Smelcer to pay a \$90 witness/victim fee and \$50 in court fees.

The Norfolk District Attorney's Office, the U.S. Department of Housing and Urban Development's Office of the Inspector General, the Quincy Police Department, and the Quincy Housing Authority provided assistance during this investigation.

*Town of Grafton: Chapter 40B Settlement*

In November 2011, the Office issued a report regarding the Office's investigation of Hilltop Farms, an affordable housing development in Grafton that was built pursuant to M.G.L. c. 40B ("Chapter 40B"). The investigation focused on the developer's compliance with cost reporting and profit limitation requirements. The investigation highlighted significant issues with the developer's financial reporting. Although the developer claimed in its cost certification that it had not earned any excess profits, the Office identified a substantial amount of money that the developer owed to the town.

The town of Grafton subsequently filed a civil lawsuit against the developer to recover the excess profits owed to the town. The suit was settled in December 2014. As a result of the settlement, the developer, Pulte Homes of New England, will pay the town of Grafton \$1.3 million.

**Public Benefits**

*Newton Housing Authority: Fraud Charges Against Boston Firefighter and Business Owner*

A joint investigation by the Office and the Newton Police Department led to criminal complaints against Yuri Quinnie, a Boston firefighter, and Milcia De La Cruz, the co-owner of a hair salon. The complaint charged Quinnie with five counts of conspiracy to commit procurement fraud and two counts of accessory before the fact to commit procurement fraud; it also charged De La Cruz



with five counts of conspiracy to commit procurement fraud and three counts of procurement fraud.

The charges alleged that between 2009 and 2012, De La Cruz was a tenant in the Newton Housing Authority (“NHA”); Quinnie lived with her but was not an authorized tenant. The charges further alleged that between 2009 and 2012, Quinnie and De La Cruz conspired so that De La Cruz would pay only \$66 per month in rent to the NHA for a subsidized rental unit. To achieve their goal, Quinnie and De La Cruz submitted false information to the NHA to conceal that (1) Quinnie lived with De La Cruz; and (2) De La Cruz earned income from Milcia’s Salon, a business she co-owned with Quinnie. The two also concealed Quinnie’s income, which averaged \$108,000 a year while he lived at the housing authority, as well as De La Cruz’s income from the salon. Disclosure of this income would have disqualified their eligibility for NHA housing.

In October 2014, Quinnie pled to sufficient facts to one count of conspiracy, with the condition that he must complete 100 hours of community service. The court dismissed the remaining counts. De La Cruz pled to sufficient facts to one count of procurement fraud. De La Cruz must complete 300 hours of community service and is prohibited from applying for public housing until October 2016. The court placed her on pre-trial probation for two years on the remaining charges.

### **Developmental Disabilities**

#### *Community Services: Former Facilities Director Sentenced for Bribery*

Following an investigation by the Office, Charles Feeney, the former facilities director of two Somerville non-profit organizations, was sentenced to six months in federal prison for soliciting bribes from a general contractor working for the two organizations.

Feeney was the facilities director for Community Alternative Residential Environments, Inc. (“CARE”) and Walnut Street Center (“WSC”), which provide support services for developmentally disabled adults and their families. Feeney’s job was to oversee renovations to property purchased by CARE and WSC and to solicit bids for a general contractor to undertake the work. Feeney told executives at CARE and WSC that he had received three bids for the project, but in fact he had gotten no bids. Instead, Feeney made a deal with a general contractor he knew: Feeney would hire the contractor to work on CARE/WSC’s building and, in exchange, Feeney’s business, C.T. Feeney & Sons Electrical Services, would get the electrical subcontract.

Feeney received more than \$139,000 for the electrical subcontract. After Feeney’s actions were uncovered, the two non-profits incurred more than \$142,000 in costs to determine whether the renovations had been performed properly and to assist the government in the criminal investigation.

Feeney subsequently pleaded guilty to two counts of soliciting bribes. In February 2015, a federal judge sentenced Feeney to six months in prison with three years of supervised release, and ordered Feeney to pay \$142,927 in restitution. The Office investigated this case with the U.S. Department of Housing and Urban Development’s Office of the Inspector General.

## **Town Operations**

### *Town of Hinsdale: Allegations of Legal Violations and Management Failures*

The Office received a complaint alleging that certain town employees were misusing town materials and assets; violating M.G.L. c. 30B, the Uniform Procurement Act; and violating payroll and timekeeping policies. After examining the matter, the Office requested that the Board of Selectmen immediately review these allegations; address any potential vulnerabilities, internal control weaknesses, and violations of state laws; and inform the Office of any actions taken.

The town responded to the Office by letter in June 2014. The town reported that it would implement the following:

- The Board will require town employees involved with purchasing to understand and fully comply with the requirements of M.G.L. c. 30B.
- The Board voted to require employees to perform their duties at the Town Hall rather than working remotely.
- The Town Personnel and Policies Committee will be tasked with developing and strengthening formal procedures and policies.

## ***Bureau of Program Integrity***

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The Bureau of Program Integrity (“Bureau”) issued an initial report on the Department of Transitional Assistance (“DTA”) on February 28, 2014. This report was based on a legislative mandate for a broad review of DTA, including DTA’s management and operations, and DTA’s Program Integrity Division.<sup>4</sup> In July 2014, the Bureau reported on its review of the Work Program Requirement, which is a mandate in the Transitional Aid to Families with Dependent Children program that is aimed at helping individuals return to the workforce. Throughout 2014, furthermore, the Bureau continued its work with DTA, reviewing eligibility processes (DTA’s approach to screening recipients according to eligibility criteria for benefits programs) and program integrity processes (DTA’s approach to fraud detection).

In 2014, the Bureau also responded to two specific legislative mandates. First, in Senate Bill 2211, “An Act to Foster Economic Independence” (“Welfare Reform Statute”), the Legislature mandated that the Bureau consult with DTA to develop a fraud detection program. The Legislature stated that the purpose of the fraud detection program is to analyze the risk of fraud, identify potential fraud, and refer cases of suspected fraud to DTA’s Program Integrity Division and the State Auditor’s Bureau of Special Investigations.

Second, the Legislature mandated that the Office consult with the Office of the Child Advocate on an emergency review and analysis of the management and operations of the Department of Children and Families. Staff from both the Bureau and the Policy and Government Division have met regularly with the Child Advocate and her staff to discuss their approach to this review and offer feedback and advice.

### **Initial Report on the Department of Transitional Assistance**

For its first project, the Bureau completed a timely and comprehensive review of DTA. In its report, filed February 28, 2014, the Bureau analyzed eligibility processes and program integrity processes. (The Office provided a detailed summary of this report, entitled *The Bureau of Program Integrity’s 2013-2014 Review of the Department of Transitional Assistance*, in the 2013 Annual Report.) The Bureau found that DTA had improved eligibility processes in 2013-2014; however, the Bureau also found that DTA did not detect potential fraud at the earliest possible opportunity and had not developed a comprehensive system of internal controls. The Bureau focused its recommendations on department-wide risk management, case management, system enhancements, and policies and procedures.

### **Review of the TAFDC Work Program Requirement**

After filing its initial report in February 2014, the Bureau reviewed DTA’s administration of the Work Program Requirement. The Work Program Requirement (“Work Requirement”) of the Transitional Aid to Families with Dependent Children (“TAFDC”) program is based on a federal

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<sup>4</sup> DTA’s Program Integrity Division coordinates DTA’s activities and functions aimed at preventing fraud, waste, and abuse. In particular, the Program Integrity Division screens and investigates case referrals involving potential fraud or the overpayment of benefits.

mandate to engage TAFDC recipients in work-related activities and facilitate their transition from cash benefits to self-sufficiency. As a result, effective administration of the Work Requirement is critical to achieving the mission of the TAFDC program. The July report summarized the Bureau's review and set forth recommendations for improving the administration of the Work Requirement.

As a foundation for the review, the Bureau analyzed processes by which DTA implements the Work Requirement and recommended changes to improve these processes. The Bureau met with Full Engagement Workers ("FEWs"), specialized DTA staff who assist case managers in administering the Work Requirement. The Bureau also conducted a close analysis of a sample of TAFDC cases. The Bureau found that assessments of TAFDC recipients were incomplete, and case managers did not engage in timely and thorough self-sufficiency planning. The Bureau recommended that DTA provide appropriate training tools and staff resources to assess recipients for work readiness, and that DTA promote a model for case management that emphasizes initial and ongoing assessment of recipients. Additional recommendations included:

- Improvements to BEACON, DTA's interactive eligibility database.
- Stronger verification and screening procedures.
- Clear standards for initial and ongoing assessments of recipients for work readiness.
- Reevaluation of the sanction process for recipients who do not comply with the Work Requirement.
- Development of new strategies for helping recipients with employment barriers and disabilities to achieve economic stability.
- Training for case managers.

Since July 2014, the Bureau has monitored DTA's implementation of these recommendations. In addition, the Bureau has monitored DTA's planning process for implementing the policies and programs outlined in the Welfare Reform Statute. In January 2015, the Bureau also reviewed and commented on DTA's draft regulations to implement the Welfare Reform Statute. The Bureau will continue in this oversight role as DTA moves forward with program development and implementation.

### **Ongoing Review of DTA Operations and System Changes**

To monitor eligibility and program integrity processes at DTA, the Bureau has reviewed operations and system projects as they are being planned and implemented. Starting in 2013 and continuing through December 2014, the Bureau reviewed DTA's implementation of new business processes, including electronic document management, the "First-Available Worker" model for Supplemental Nutrition Assistance Program cases, and DTA's statewide assistance line.

In November and December 2014, the Bureau conducted several site visits at DTA's field offices to evaluate the initial impact of the new business processes. The Bureau concluded that DTA's system withstood a major overhaul and that staff were generally positive about the new business processes. However, the Bureau also found that DTA had not fully standardized its operating

procedures across the DTA field offices and faced significant challenges in doing so. Moving forward, the Bureau will continue to study DTA's business processes and make recommendations for improving them.

### **Development of a Fraud Detection Program**

In response to the mandate to help DTA develop a fraud detection program, the Bureau has worked with DTA to review the Program Integrity Division's resources and processes.<sup>5</sup> The Bureau has also met regularly with DTA's data analytics staff.

In August and September 2014, the Bureau conducted field visits to assess the implementation of a system tool called the Program Integrity Checklist. The Program Integrity Checklist is designed to help DTA staff review and verify external data related to eligibility for benefits. The tool assists DTA staff with initial eligibility screening and the identification of potential fraud. The Bureau found that DTA implemented the Program Integrity Checklist as planned; however, the Bureau identified several areas for improvement and recommended that DTA reevaluate some of the functionality of the Program Integrity Checklist. The Bureau also recommended that DTA use data metrics to evaluate the effectiveness of the Program Integrity Checklist.

Finally, the Bureau provided DTA with a blueprint for its fraud detection program, based on research identifying national best practices. The Bureau recommended three components for the program: (1) upfront preventive controls; (2) ongoing monitoring and detection; and (3) investigation and prosecution. The Bureau found that DTA has devoted some resources to all three areas, but there is more development and coordination to do. The Bureau also recommended that DTA document all of its fraud prevention and detection controls. The Bureau will continue to consult on the development of a fraud detection program during the next fiscal year.

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<sup>5</sup> See the previous footnote.

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## ***Internal Special Audit Unit***

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The Internal Special Audit Unit (“ISAU”) monitors the quality, efficiency, and integrity of the Massachusetts Department of Transportation’s (“MassDOT”) operating and capital programs. In this role, the ISAU seeks to promote governance, accountability, and compliance that will both improve MassDOT’s operations and protect transportation funds. Since the inception of the ISAU in 2013, the unit has completed reviews on many topics, including transportation fringe benefits, fleet vehicle operations, parking garage leases, and parking privileges.

### **Identification of Potential Savings**

One of the ISAU’s primary objectives is to protect transportation funds by identifying potential cost savings and the inappropriate use of funds. In 2014, the ISAU identified waste in various areas of MassDOT’s fleet vehicle program. The table below details the inappropriately used funds and thus opportunities for potential savings for the agency. Further specifics of the investigation are detailed in the *Audits, Investigations, and Reviews* section below.

<b>Transportation Funds</b>	
<b>MassDOT’s Fleet Vehicle Operations</b>	<b>Potential Savings</b>
State vehicles not used regularly	\$2,412,278
Unnecessary replacement of vehicles	\$738,646
State vehicles used primarily for personal commuting	\$485,298
Unnecessary vehicle accessories	\$330,600
Purchase of six Ford Explorers for senior executives	\$204,000
Navigation equipment that was purchased but never received	\$45,240
<b>ISAU Hotline</b>	
Cost savings by bringing MassDOT’s hotline in-house	\$30,000
<b>Total: \$4,246,062</b>	

Table 3.

### **Audits, Investigations, and Reviews**

#### *Massachusetts Department of Transportation’s Fleet Vehicle Operations*

In 2014, the ISAU conducted a comprehensive review of MassDOT’s fleet of over 1,500 light-duty passenger vehicles.<sup>6</sup> The ISAU reviewed MassDOT’s oversight, procurement, assignment, maintenance, and use of its light-duty fleet. The review included determining whether MassDOT appropriately used taxpayer funds for its fleet of over 1,550 light-duty vehicles. The review uncovered widespread, systemic vulnerabilities and specific problems, including the use

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<sup>6</sup> “Light-duty passenger vehicles” refers to all passenger vehicles in MassDOT’s fleet, ranging from Ford F-350 pickup trucks to sedans. The audit did not examine the MBTA’s separate management processes for its vehicles. The audit also did not address MassDOT’s heavy-duty vehicles, which include all equipment (plows, sign boards, dump trucks, etc.) and larger pickup trucks.

of fabricated license plates, questionable vehicle purchases, and 180 vehicles with expired inspection stickers. Finally, the review identified concerns over MassDOT's use of \$3.4 million in federal grant money that the agency had received to replace its aging Crown Victoria sedans with alternative fuel vehicles. Specifically, the ISAU found:

- Potential misuse of \$3.4 million in federal funding, which was designated for reducing vehicle emissions and pollution, by increasing the size of its fleet but not eliminating older, less fuel-efficient vehicles.
- Inappropriate purchase of vehicles with the Massachusetts State Police Emergency Equipment Package, costing \$204,000, for senior-ranking MassDOT officials.
- Use of inaccurate procurement paperwork, indicating that the vehicles noted above were for the Massachusetts State Police.
- A senior MassDOT official approved her own vehicle purchase and assignment.
- Questionable vehicle assignments, leading to one in five MassDOT employees being assigned a state vehicle.
- Unnecessary replacement of vehicles that were fairly new, had relatively low mileage, and were in good condition, costing in excess of \$700,000.
- Purchase of unnecessary vehicle accessories, including Bluetooth and emergency lighting, without an assessment of the need for the equipment, costing \$330,600.
- Payment of \$45,240 for navigation equipment that MassDOT never received.
- 180 MassDOT vehicles with expired vehicle safety and emissions inspection stickers.
- Misuse of commercial and passenger license plates on MassDOT vehicles that should have had official state license plates.
- MassDOT fabricated its own license plates to replace missing or damaged state license plates, in violation of state law.
- Misuse of state vehicles for free, daily parking in downtown Boston.
- Lack of effective oversight and uniform policies, including:
  - No policy requiring departments to demonstrate a business need before purchasing vehicles or assigning vehicles to employees.
  - No uniform requirement that drivers maintain vehicle logs.
  - Failure to segregate incompatible procurement functions, such as allowing the same individual to order and accept delivery of vehicles.
  - Allocation of annual funding evenly among its six highway districts regardless of the district's size or needs.
- Questionable assignment of domiciled vehicle privileges.
- More than 400 state vehicles that were unassigned, many of which were not being used and sat idle for long periods of time, calling into question the need for these vehicles.



- Deficient recordkeeping, including many incomplete and inaccurate vehicle records in MassDOT's electronic vehicle management system.

The ISAU recommended that MassDOT significantly improve the management of its fleet by more closely overseeing the purchase, assignment, and use of light-duty vehicles. Additionally, the ISAU recommended that MassDOT implement and enforce the Executive Branch's vehicle policies. The ISAU also recommended that MassDOT retire the appropriate number and type of vehicles to follow through on the commitment it made when applying for the \$3.4 million in federal funding to reduce vehicle emissions and pollution.

After reviewing the ISAU's report, MassDOT made changes to address some, but not all, of the findings identified in the report.

More detail can be found in the ISAU's *2014 Fleet Vehicle Operations Report* at [www.mass.gov/ig](http://www.mass.gov/ig).

### **RMV Disability Placard Task Force**

Following the Office's 2013 report on the abuse of disabled persons' parking placards, the Registry of Motor Vehicles ("RMV") created a joint task force dedicated to addressing and resolving issues surrounding placard abuse. The task force is committed to increasing enforcement of the current laws, amending state laws to increase the penalties for placard abuse, and tightening administrative controls to make abuse more difficult to accomplish and easier to detect. The ISAU participates in the task force along with members of the RMV, the Massachusetts Office on Disability, the Massachusetts State Police, the City of Boston's Office of the Parking Clerk, and the Boston Police Department.

The Office's 2013 report *The Abuse of Disabled Persons Parking Placards: A Multi-Agency Investigation* can be found at [www.mass.gov/ig](http://www.mass.gov/ig).

### **ISAU Hotline**

In 2014, the ISAU agreed to take over responsibility for MassDOT's internal employee hotline and the RMV's placard abuse hotline. This agreement enabled MassDOT to save approximately \$30,000 a year in costs associated with outsourcing the employee hotline. The ISAU hotline enables MassDOT employees to anonymously report fraud, waste, or abuse in the use of public or private transportation funds, including any wrongdoing, misuse of equipment, or other prohibited activity. For the RMV hotline, the ISAU fields incoming phone calls from the public regarding the alleged misuse or abuse of disabled persons' parking placards. The information is recorded and forwarded to the RMV's Medical Affairs Bureau for further investigation. In 2014, the ISAU received over 120 phone calls on the RMV hotline.

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## ***Policy and Government Division***

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The Policy and Government Division oversees the Office's policy, health care, and legislative initiatives. The Division also reviews programs, policies and practices in state and local agencies to identify systemic vulnerabilities and opportunities for improvement. Additionally, the Division is responsible for the Office's public construction and real property reviews.

### **Health Care**

In 2004, the Legislature created the Office's Health Safety Net Audit Unit. In that legislation and in each subsequent year, the Legislature has mandated that the Office oversee and examine practices in Massachusetts hospitals, including care paid for through the Health Safety Net. The Health Safety Net is a health care program that provides access to essential health care services for low-income uninsured and underinsured Massachusetts residents by reimbursing acute care hospitals and community health centers for certain services provided to this population. Since 2011, the Legislature has also directed the Office to study and review the Massachusetts Medicaid program.

#### *MassHealth Medicaid and Health Safety Net Reviews*

Pursuant to its mandate under Section 160 of Chapter 38 of the Acts of 2013, the Office issued two reports in 2014 relative to the public health care system. First, the Office examined claims for reimbursement submitted to the Health Safety Net ("HSN") for health care services provided to individuals who claimed the religious exemption to the requirement that all adult Massachusetts residents have health insurance. From the inception of its review, the Office recognized that there are individuals who hold sincere religious beliefs that would cause them to decline substantially all forms of health care treatment; those individuals were not the subject of the Office's review.

The Office identified 401 individuals who both filed for the religious exemption for calendar year 2012 and for whom health care providers submitted claims to the HSN for services provided in 2012. The HSN paid providers \$427,541.92 for these health care services. The Office's review also found that many of these individuals had a substantial history of participating in the health care system over many years. Receiving health care treatment while claiming the religious exemption to the health care mandate is contrary to both the intent and letter of the law. It is also unfair to the Massachusetts residents who have obtained and maintained health insurance coverage, as well as to those who have paid the penalty for not having such coverage. The Office recommended tighter controls and regular audits to ensure that the HSN is not paying for health care for individuals who should be purchasing health insurance.

Second, the Office issued a report regarding noncustodial parents of children on Medicaid. MassHealth is the state agency responsible for administering the Massachusetts Medicaid program. In 2012 and 2013, the Office reviewed how MassHealth gathers and verifies information about the availability of noncustodial parents' commercial health insurance, and to what extent MassHealth uses that information to obtain health insurance coverage for a Medicaid member. For 2014, the Office reviewed a sample of 500 households in which a custodial parent

indicated that a court had issued an order requiring a noncustodial parent to provide health insurance for the custodial parent and/or dependent children.

The Office found that in hospital fiscal year 2011, MassHealth paid \$1,518,703.72 in claims for 208 households in the sample who had health insurance orders requiring the noncustodial parent to provide health insurance for the child(ren) or custodial parent. The Office then extrapolated from the claims for the households in the sample to all cases in which a Medicaid recipient reported that a health insurance order exists. Based on that extrapolation, the Office estimated that MassHealth could potentially be spending as much as \$17.5 million annually for health care that a noncustodial parent's health insurance plan should cover. The Office also found that MassHealth has access to commercial health insurance information that it could use to identify noncustodial parents who have, or who have access to, employer-sponsored health insurance.

Also in 2014, pursuant to its mandate under Section 215 of Chapter 165 of the Acts of 2014, the Office began conducting two reviews of the MassHealth Medicaid and HSN programs. First, the Office is reviewing high utilization of MassHealth Medicaid resources by certain MassHealth Medicaid members and HSN users ("super-utilizers"). The Office is analyzing super-utilizer claim information, the current programs and policies in place to address the needs of this group, and other payors' attempts to address the needs of super-utilizers while containing costs. The Office is working to identify any trends in the data that may indicate fraud, waste, or abuse in the provision of services to super-utilizers; conducting a clinical analysis of the claim information; and reaching general conclusions regarding the reasons for the super-utilizers' frequent use of the health care system. The Office is also analyzing the existing MassHealth Medicaid and HSN programs for super-utilizers, comparing them with Medicare and one private payor, and will make recommendations as to how MassHealth could address the clinical needs of super-utilizers in a manner that would reduce spending while providing appropriate medical care.

Second, the Office is reviewing the payment of certain pharmaceutical claims by MassHealth Medicaid and the HSN. In particular, the Office is reviewing high-level claim information relating to prescriptions for certain of the Drug Enforcement Agency's Schedule II pharmaceuticals ("Schedule II drugs"). The Office is assessing any trends that indicate fraud, waste, or abuse in the prescribing and payment of Schedule II drug claims, including whether Schedule II drug claims occurred concurrently with claims for substance abuse treatment, occurred concurrently with substance abuse diagnoses, or appear to be clinically appropriate for the primary or secondary diagnoses. The Office is also reviewing whether MassHealth Medicaid and the HSN paid multiple claims for the same Schedule II drugs for the same person on the same date of service, whether there are any trends among prescribers of Schedule II drugs, and whether MassHealth Medicaid and the HSN have sufficient regulations and policies in place with regard to these drugs.

### **Public Design and Construction**

Since its inception, the Office has helped develop policies and procedures related to the Commonwealth's public design and construction laws. In 2014, the Office worked with the Department of Capital Asset Management and Maintenance ("DCAMM"), the Massachusetts Department of Transportation ("MassDOT"), the Massachusetts Bay Transportation Authority ("MBTA"), the Massachusetts School Building Authority ("MSBA"), the Department of Energy

Resources (“DOER”), the Attorney General’s Office, and other state and local entities to establish best practices in public construction.

Pursuant to M.G.L. c. 149A, the Office reviews applications to use alternative delivery methods, including the construction manager at-risk (“CM at-risk”) and design-build methods.<sup>7</sup> Furthermore, before certain state agencies and authorities may use alternative delivery methods on construction projects, the Legislature has charged the Office with reviewing and approving the procedures for using those delivery methods. Consequently, the Office reviews and approves certain procedures for DCAMM, the Massachusetts Port Authority, the Massachusetts Water Resources Authority, the Massachusetts State College Building Authority, and the University of Massachusetts Building Authority.

### *Construction Management at-Risk*

Since 2005, public entities have increasingly used the CM at-risk delivery method for public building construction projects that cost \$5 million or more. Under this delivery method, the owner typically selects the CM at-risk firm at the outset of, or early in, the design stage. After conducting a selection process that focuses on qualifications and fees, the owner executes an initial contract with the selected CM at-risk firm. During the design stage, the owner and the CM at-risk firm negotiate a guaranteed maximum price for the project and the CM at-risk firm assumes responsibility for the performance of the work, including subcontractors’ work.

In 2014, the Office received 15 applications to use the CM at-risk delivery method, totaling over \$623 million in project costs. The projects included six public schools, four charter schools, one research and materials laboratory, one affordable housing development, and three public safety building projects. Applicants included the Cambridge Housing Authority, MassDOT, the cities of Newton and Worcester, and the town of Brookline.

### *Incentive/Disincentive Specifications*

The passage of Chapter 233 of the Acts of 2008, “An Act Financing An Accelerated Structurally-Deficient Bridge Improvement Program,” allows state agencies to build or remodel bridges using alternative methods, including incentive and disincentive specifications, subject to the Office’s approval. In 2014, MassDOT’s Highway Division submitted proposed procedures for incentive and disincentive specifications on four bridge projects, totaling over \$95 million in project costs. These projects included the William J. Casey Overpass project in Boston and the Gilman Street Bridge Replacement project in Somerville. The Office approved the Highway Division’s proposed procedures for each bridge project.

### *Owner’s Representative Annual Reports*

In 2014, pursuant to M.G.L. c. 30, § 39M½, and M.G.L. c. 149A, § 15½, the Office reviewed 24 owner’s representative annual reports for ongoing or recently completed public works projects.

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<sup>7</sup> “Alternative delivery method” means a delivery method other than the traditional design-bid-build sequential method of construction required in M.G.L. c. 149 (building construction projects) and M.G.L. c. 30, § 39M (public works construction projects).

The Office had reviewed 18 owner's representative annual reports in 2013. Each of these projects is valued at \$50 million or more.

### **Real Estate Transactions**

Each year, the Office reviews a variety of public real property transactions, including dispositions, acquisitions, and long-term leases, to ensure that the public's interests are adequately protected. In addition, the Legislature frequently mandates that the Office review and approve independent appraisals of real property that the state, counties, and municipalities propose to convey or acquire. The Office provides a report on each appraisal to the Commissioner of DCAMM for submission to the House and Senate Committees on Ways and Means and the Joint Committee on State Administration and Regulatory Oversight.

The Office generally recommends that all real property appraisal reviews conducted at the direction of the Legislature follow the Uniform Standards of Professional Appraisal Practice. The Office's appraisal reviewers evaluate whether the analyses, opinions, and conclusions in the appraisal are appropriate and reasonable. If it disagrees with some aspect of an appraisal, the Office sets forth those reasons in its report to DCAMM.

Below are several transactions that the Office reviewed in 2014.

#### *Daly Field in Boston*

The Office reviewed the appraisal related to the lease of the Daly Field complex in Boston. Chapter 223 of the Acts of 2012 allows DCAMM, in consultation with the Department of Conservation and Recreation, to lease the Daly Field complex to the Allston Brighton Friends of Daly Field, Inc., a local non-profit organization comprised of representatives from the Allston and Brighton neighborhoods, surrounding communities, Brighton High School, and Simmons College. Simmons College would be responsible for completing capital improvements to the complex after a lease is executed. The Office approved the methodology and value determinations in the appraisal after examining (1) the value of the proposed capital improvements; (2) the relative value associated with Simmons College's use of the Daly Field complex; (3) the relative value associated with the general public's use of the complex; and (4) other relevant factors.

#### *Worcester CitySquare Development*

Chapter 133 of the Acts of 2006 authorized Worcester to redevelop the CitySquare area of downtown Worcester using a private developer to complete both private and public improvements. This year, the Office reviewed the fifth amendment to the Worcester CitySquare Development Agreement, which governs the disbursement of public funds to the project. The Office noted that the city's current plan is to construct an underground garage with 550 spaces, which is different from the previous plan in which the garage would have had over 1,200 spaces. The city also plans to change the uses of certain parcels of land, which will require an amendment to the 2007 Declaration of Use Restrictions recorded at the Registry of Deeds. In addition, the city allowed the developer more time to obtain financing and complete permitting. Because of the significant changes to the size and location of the parking garage, the Office

recommended that the city revise the agreement to reflect the changes and complete a new parking study.

#### *Uxbridge Rest Areas*

Pursuant to Chapter 156 of the Acts of 2009, the Office reviewed six appraisals of property to be used for the redevelopment of two rest areas and the construction of a highway maintenance building along Route 146 in Uxbridge. DCAMM will lease all of the property at issue to KGI Properties, LLC. The Office approved the methodologies and opinions of values presented in the appraisals.

#### *Former State Police Barracks in Grafton*

The Office reviewed a reappraisal of land and a building to be conveyed to the Massachusetts State Police Museum and Learning Center, Inc. The reappraisal was necessary for a variety of reasons, including a 2013 amendment to the enabling legislation and a decision by DCAMM to retain a telecommunications tower and easement on the land. After a thorough review, the Office approved the opinion of value presented in the reappraisal.

#### *Springfield Technical Community College Assistance Corporation*

The Springfield Technical Community College Assistance Corporation (“Corporation”) submitted a refinancing and loan agreement to the Office for review. The Corporation plans on using the proceeds to construct a charter school and for other tenant build-out projects. The Corporation stated that the terms of the refinancing and loan agreement were more favorable than its agreement with another bank. As a result, the Corporation switched banks. The Office found that the proposed borrowing plan was in accordance with the purposes of the Corporation as outlined in the authorizing legislation.

### **Energy**

#### *Energy Management Services Contracts and On-Site Energy Generation Contracts*

The Office provided DOER with comments on its proposed regulations, 225 CMR 19.00, “Energy Management Services (EMS) Contracts Requests for Qualifications Process.” The Office had recommended that DOER develop such regulations because the Office’s past reviews of EMS procurements showed that these long-term, complicated arrangements are vulnerable to fraud, waste, and abuse. After reviewing the proposed regulations, the Office suggested that DOER clarify certain procedural aspects of the regulations and incorporate best practices. DOER agreed with the suggested revisions and included them in the final regulations or associated guidelines, forms, and model documents. DOER’s regulations are an important step in providing local governmental units with proper guidance on procuring EMS contracts.

#### *Energy Contracts*

The Uniform Procurement Act, M.G.L. c. 30B (“Chapter 30B”), requires cities, towns, and other political subdivisions of the Commonwealth to submit all contracts for energy or energy-related services to the Office. In 2014, the Office determined that cities, towns, and other political

subdivisions might benefit from a summary of these contracts as they negotiate and enter into agreements for the provision of energy and energy-related services. To that end, the Office published a summary of energy and energy-related contracts that the Office received between April 1, 2014 and October 31, 2014.

### **Legislative Initiatives**

Since it was established in 1981, the Office has reviewed and commented on proposed legislation during each legislative session. In addition, the Office regularly assists individual legislators to develop both legislation specific to the districts they represent and legislation that affects the general operations of state and local government. The Office also responds to requests from the Governor's Office to review legislation that the Legislature has passed and is awaiting the Governor's signature.

The Office continued to provide these important services throughout 2014. For instance, the Office reviewed and commented on more than 100 pieces of legislation during the 2013-2014 legislative session. In 2014, the Inspector General and his staff also provided testimony and guidance to legislative committees on issues related to education, housing authorities, real estate transactions, fraud controls, and procurement. In all cases, the Office stressed the importance of transparency in government and the need for safeguards to ensure the appropriate oversight of taxpayer dollars.

In addition to commenting on specific legislation, the Office sent to legislative committees a general set of guidelines for all special legislation that exempts public property transactions from Chapter 7C or Chapter 30B of the Massachusetts General Laws.<sup>8</sup> In letters sent to the House and Senate Committees on Bonding, Capital Expenditures, and State Assets; the Joint Committee on State Administration and Regulatory Oversight; and the Joint Committee on Municipalities and Regional Government, the Office called for all such bills to require: (1) the identification of the property to be conveyed, including the precise location and total acreage; (2) a statement of the purpose of the disposition; (3) a description of any use restrictions; (4) an independent appraisal establishing the property's fair market value; (5) the private party acquiring the property to pay no less than the established fair market value; (6) the private party to pay all direct transaction costs; (7) the property to revert to the state in the event the property is not used for the purpose intended in the legislation; and (8) that the disposition be subject to public disclosure requirements.

### **Comments on Legislation**

#### *Water Meters: Senate 2021, An Act Improving Drinking Water and Wastewater Infrastructure*

In 2014, the Office wrote to the House Committee on Ways and Means opposing a section of this proposed bill that would have increased the potential for fraud, waste, and abuse of taxpayer dollars. The proposed language would have amended the statute that allows state agencies, building authorities, and municipalities to use a request-for-qualifications process to make energy-saving upgrades. To use this process, the vendor must guarantee the energy savings. The

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<sup>8</sup> Chapter 7C and Chapter 30B contain bidding procedures, advertising requirements, and other provisions designed to protect the public interest.



proposed language would no longer have required that the products or services save money or energy. In particular, the proposed language would have allowed payments to be based on the installation of “metering or related equipment.” Payments could also be based on cost savings that were attributable to “improved system accuracy.” Meters and other equipment that improve system accuracy do not reduce consumption or save money, however; rather, such devices simply measure consumption. The language was not included in the final version of the bill.

*Theater Tax Credits: House 4377, An Act Promoting Economic Growth Across the Commonwealth*

In 2014, the Legislature passed House Bill 4377, which would have created a theater tax credit program similar to that for the film industry. The Office wrote to the Governor and offered recommendations to improve the oversight of the proposed theater tax credit program. In particular, the Office recommended that the program include close oversight by a qualified agency, regular auditing, and strict reporting requirements, including requiring the submission of documentation under the pains and penalties of perjury. The Governor ultimately vetoed the program, and cited the Office’s concerns as contributing to that decision.

**Proposed Legislation: 2015-2016 Session**

Chapter 30 of the Massachusetts General Laws permits the Office to file legislation in November of even years for the upcoming legislative session. In November 2014, the Office filed the following bills for the 2015-2016 legislative session.

*House 9, An Act Relative to Fraud*

This bill would make it a crime to defraud the Commonwealth or any of its political subdivisions. Currently, no such general fraud statute exists, making it difficult or impossible to prosecute fraudulent schemes that do not clearly constitute a specific fraud – such as mail or wire fraud – that specific legislation has criminalized. The bill has been referred to the Joint Committee on the Judiciary.

*House 10, An Act Relative to Chapter 30B*

This bill would increase the fine – from \$2,500 to \$10,000 – for causing or conspiring to cause a public body to award a contract in violation of Chapter 30B. It also would make technical corrections to update Chapter 30B based on recently enacted amendments to other statutes. This bill has been referred to the Joint Committee on State Administration and Regulatory Oversight.

*House 11, An Act Relative to Disabled Persons’ Parking Placards*

The bill would increase the fines for misusing a disabled persons’ parking placard and would add language requiring the return of disabled persons’ placards. The proposal would also make it a crime to display a deceased persons’ placard or to make counterfeit placards with the intent to distribute them. This bill has been referred to the Joint Committee on Transportation.

*House 12, An Act Relative to Tax Returns*

The bill would allow the Office of the Inspector General to have access to Department of Revenue records to carry out its mandate of detecting and preventing fraud, waste, and abuse. Such records would be confidential pursuant to Chapter 12A. This bill has been referred to the Joint Committee on Revenue.

*House 13, An Act Allowing for the Appointment of Designees to the Inspector General Council*

The bill would allow the members of the Inspector General Council who are public officials to appoint designees to attend meetings on their behalf. This bill is no longer necessary due to the passage of Chapter 419 of the Acts of 2014, which is identical to this bill.

*House 14, An Act Relative to Higher Education Boards of Trustees*

The bill would require every member of a board of trustees for a public institution of higher education in Massachusetts to participate in training from the Department of Higher Education. This bill has been referred to the Joint Committee on Higher Education.

*House 15, An Act Relative to the MassDOT Internal Special Audit Unit*

The bill would update the statute for the Internal Special Audit Unit at the Massachusetts Department of Transportation to ensure the unit has the tools necessary to carry out its statutory mission. This bill has been referred to the Joint Committee on Transportation.

## ***Regulatory and Compliance Division***

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The Office's Regulatory and Compliance Division provides extensive educational and technical assistance to state and local government officials regarding Massachusetts' public procurement laws. Among other activities, the Division operates the Office's training programs, publishes educational materials, and offers a hotline to respond to inquiries and complaints concerning public procurement. The Division also interprets and formulates policies on the Uniform Procurement Act, M.G.L. c. 30B ("Chapter 30B"), which governs the purchase by local public officials of supplies, services, equipment, and real property, as well as the disposition of real property and other tangible surplus supplies.

### **Training and Professional Development**

The Office established the Massachusetts Certified Public Purchasing Official ("MCPPO") program 18 years ago. The Office created the training program to promote excellence in public procurement by ensuring that public purchasing officials have the tools necessary to operate effectively and in accordance with state procurement laws, and by helping private sector employees understand state and local bidding requirements. Since 1997, nearly 15,000 participants, including town, city, and state employees, as well as members of the private sector, have attended the MCPPO program's courses and presentations.

In 2014, the Office held 37 different classes, providing training to over 1,300 participants. Specifically, the MCPPO program offered three, three-day seminars throughout the year: (1) *Public Contracting Overview*, which includes segments on Massachusetts procurement and construction bidding laws, purchasing principles, prevailing wage laws, public records laws, and ethics; (2) *Supplies & Services Contracting*, which instructs participants on how to interpret Chapter 30B, how to conduct invitations for bids and requests for proposals, how to write effective specifications, and how to recognize and solve common bidding problems; and (3) *Design & Construction Contracting*, which provides in-depth instruction in the procurement laws governing public design and construction in Massachusetts, effective contract administration, the prequalification process, alternative delivery methods, and the identification of special issues in construction bidding. During 2014, the Office also offered courses in advanced topics, real property, construction management at-risk under M.G.L. c. 149A, special procurement issues for schools, and the fundamentals of running a public procurement office. Newly introduced in 2013, the *Story of a Building* engages attendees in the story of a public building project, from the planning stages through construction and ending with the building "coming to life." In 2014, MCPPO presented this class at the new Maynard High School.

The Office also offered a four-day course, *Certification for School Project Designers and Owner's Project Managers*, in response to the Massachusetts School Building Authority's regulations, which require public school designers and owner's project managers to receive MCPPO certification. The Office presented this course four times in 2014. The Office also offered a one-day class, *Recertification for School Project Designers & Owner's Project Managers*, for private sector designers and owner's project managers who previously received their MCPPO certification. The Office also presented this course four times in 2014.

Also in 2014, the Office worked on plans to train members of boards of trustees at public institutions of higher education and senior university staff. The Office conducted the programs in March 2015 in conjunction with the Board of Higher Education, the Attorney General's Office, and the State Ethics Commission as part of a multi-agency response to a report the Office released concerning improper spending practices by former Westfield State University President Evan S. Dobbelle. The goal of these trainings was to provide guidance to trustees regarding the importance of internal controls, fraud prevention measures, management oversight, and ethical considerations in carrying out their responsibilities on behalf of their institutions.

Last year, the Office successfully incorporated additional videoconferencing into the MCPPO program, making it possible for those with travel, budget, or personnel constraints to attend MCPPO classes. In 2014, the Office held nine videoconferences at the Gateway Regional School District in Huntington and the Centerville, Osterville and Marston Mills Fire District located in Centerville. In 2014, the Office also established new videoconference locations at the University of Massachusetts at Dartmouth and the University of Massachusetts at Lowell. As a result, the Office began offering classes at these two new sites in the spring of 2015.

Finally, the Office continues to offer *Bidding Basics, M.G.L. c. 30B*, a free, online course that provides an overview of the legal requirements for procuring supplies, services, and real property under Chapter 30B. This online class serves as a refresher for staff who do not interpret the procurement laws every day, a foundation in procurement laws for new employees, and a quick review for experienced purchasing officials. More than 700 people have participated in this free training.

### **Speaking Engagements**

Throughout 2014, the Office also provided speakers on various topics in public procurement principles and fraud prevention. Office staff made presentations to numerous agencies, authorities, and associations, including the Massachusetts Housing Partnership, the Massachusetts Chapter of the National Association of Housing & Redevelopment Officials, the Massachusetts Water Resources Authority, the Municipal Auditors' and Accountants' Association, the Massachusetts Association of Public Purchasing Officials, the Massachusetts Association of School Business Officials, the Massachusetts Collectors' and Treasurers' Association, the Massachusetts Association for Pupil Transportation Officials, the Massachusetts Facilities Administrators' Association, the Massachusetts Library System, the Berkshire County Massachusetts Highway Superintendents' Association, the Hamilton-Wenham Regional Supervisors' meeting, Operational Services Division CommBuys Program, the New England Public Works Expo, and the Northeast Regional Vocational School District

### **Inquiries and Complaints**

The Office regularly advises purchasing officials on how to comply with state bidding laws, obtain best value, and increase competition for public contracts. As part of this service, the Office offers a hotline to respond to questions and complaints concerning public procurement. In 2014, the Office responded to approximately 1,375 inquiries and questions about Chapter 30B and other public bidding laws.

## **Publications**

The Office publishes a wide range of materials designed to educate and inform local procurement officials, private vendors, and the public. Since 1994, the Office has published the *Procurement Bulletin*, a quarterly newsletter containing articles about public procurement, new legislation, the Office's investigations, and other topics of importance to purchasing officials. During 2014, over 2,700 individuals subscribed to the *Procurement Bulletin*. Representative topics covered in 2014 include the "25-Percent Rule," certifications of good faith, the use of alternate bids, delegations of procurement powers, energy and energy-related contracts, whether to lease or purchase an asset, and factors to consider before using a crowdfunding website for fundraising. Current and past issues of the *Procurement Bulletin*, as well as a topical index of past issues, are located on the Office's website.

## **Owner's Project Manager Review Panel**

Each month, counsel from the Regulatory and Compliance Division represents the Office at the Owner's Project Manager Review Panel ("Review Panel"). When a school district receives state funding to build a new school, it must use an owner's project manager ("OPM") to oversee the building project. The Review Panel, which is led by the Massachusetts School Building Authority, reviews each school district's selection of an OPM, including the evaluation process the school district used.

As a member of the panel, counsel reviews the districts' processes and evaluations of OPM-applicants. This review entails examining both the school district's needs and the OPM's qualifications, including the OPM's project experience, managerial experience, backlog of other ongoing work, and financial viability. Counsel then participates in the Review Panel's meeting, listening to the presentations of the school district and the proposed OPM. After listening to presentations, reviewing the materials, and soliciting questions, the panel may either agree with the school district's selection of an OPM or recommend further review and consideration.

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## ***Reports, Letters, and Publications***

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The following reports, letters and other documents from the Office's work in 2014 are available on the Inspector General's website, [www.mass.gov/ig](http://www.mass.gov/ig):

### **Reports and Letters:**

- Inspector General Letter to Secretary Marini, Department of Public Utilities, on the Cape Light Compact Aggregation Plan
- Inspector General Letter commenting on House bill 4377 and a Theater Tax Credit Proposal
- Review of Spending Practices by Former Westfield State University President Evan S. Dobelle
- The Bureau of Program Integrity's Review of the Work Program Requirement for Transitional Aid to Families with Dependent Children
- Massachusetts Department of Transportation's Fleet Vehicle Operations
- Inspector General Letter commenting on Senate bill 2021 and a proposed amendment relative to Water Meters and Energy Management Services
- 2013 Annual Report: Internal Special Audit Unit
- Investigation of the Drug Laboratory at the William A. Hinton State Laboratory Institute 2002-2012
- Bureau of Program Integrity's 2013-2014 Review of the Department of Transitional Assistance
- Ongoing Analysis of the Health Safety Net Trust Fund: The Religious Exemption from Mandated Health Insurance Coverage
- Ongoing Review of MassHealth and Noncustodial Parents' Health Insurance
- Update on the Office of the Inspector General Joint Investigation of Abuse of Disabled Person's Parking Placards
- Investigation of the Drug Laboratory at the William A. Hinton State Laboratory Institute
- Bureau of Program Integrity's Review of the Department of Transitional Assistance
- Ongoing Analysis of the Health Safety Net Trust Fund: The Religious Exemption from Mandated Health Insurance Coverage
- Ongoing Review of MassHealth and Noncustodial Parents' Health Insurance

### **Legislative Testimony and Announcements:**

- Inspector General's Investigation Leads to the Conviction of the Former President of the Quincy Housing Authority's Tenant Association for Larceny
- Former Lobbyist Richard McDonough Indicted for Pension Fraud

- Verizon New England Inc. Agrees to Pay Over \$1.3 million to Settle Allegations of State Contract Overbilling
- Boston Fire Department District Chief Indicted
- Office of the Inspector General's Investigation Leads to Charges Against Boston Firefighter and Newton Business Owner for Defrauding the Newton Housing Authority
- IG Employees Receive Commonwealth's Citation for Outstanding Performance
- Former Chelsea Housing Authority Executive Director Sentenced for Rigging Inspection Process
- IG's Hinton State Laboratory Investigation Team Receives Manuel Carballo Governor's Award for Excellence in Public Service
- Changes to Chapter 30B Uniform Procurement Act Thresholds

**Publications:**

- *Procurement Bulletin*, Vol. 20, Issue #4
- *Procurement Bulletin*, Vol. 20, Issue #3
- *Procurement Bulletin*, Vol. 20, Issue #2
- *Procurement Bulletin*, Vol. 20, Issue #1