

945 CMR 1.00: RULES OF PROCEDURE

Section

- 1.01: Purpose
- 1.02: Scope
- 1.04: Initiation of Investigations, Audits or Reviews
- 1.05: Conduct of Investigations, Audits or Reviews
- 1.06: Summonses
- 1.07: Enforcement of Summons
- 1.08: Conduct of Private Sessions
- 1.09: Report and Referral of Investigative or Audit Findings
- 1.10: Inspector General Reports
- 1.11: Cooperation With Public Bodies and Private Entities
- 1.12: Requests for Information
- 1.13: Delegation by the Inspector General
- 1.14: Responsibility of Staff
- 1.15: Amendment or Repeal of 945 CMR 1.00

1.01: Purpose

The Office of the Inspector General, (hereinafter the "Office"), was created by St. 1980, c. 388 codified in part as M.G.L. c. 12A. The Office is charged with the responsibility of preventing and detecting fraud, waste and abuse in the expenditure of public funds for the procurement of construction, supplies and services. The Office is authorized to receive complaints and information; initiate audits and investigations; review legislation and regulations and make recommendations thereon; recommend policies or practices which will assist in the prevention or detection of fraud, waste and abuse in the expenditure of covered public funds; and, when warranted, report or refer its audit or investigative findings to appropriate investigative, prosecutorial, or otherwise interested public agencies. 945 CMR 1.00 is promulgated pursuant to M.G.L. c. 12A, § 6. They have been adopted to guide the Office in the fair and effective discharge of its statutory function, to inform interested persons of the policies and practices employed by the Office, and to protect the rights of witnesses, complainants, informants, or other individuals or public bodies affected by the Office's proceedings.

1.02: Scope

945 CMR 1.00 governs the conduct of the activities of the Office. An activity or procedure not expressly covered by 945 CMR 1.00 is permissible if within the jurisdiction of the Office and permitted by law.

[1.03: Definitions (Reserved)]

1.04: Initiation of Investigations, Audits or Reviews

(1) General

- (a) The Inspector General, on his own motion, or in response to information or complaints received, may initiate investigations, audits, or reviews of legislation, regulations, policies or practices related to the prevention or detection of fraud, waste or abuse in the expenditure of state, federal, or local public funds or in the use of public property in programs and operations involving or relating to the procurement of construction, supplies, or services by agencies, bureaus, divisions, sections, departments, offices, commissions, institutions and activities of the Commonwealth including districts, authorities, instrumentalities or political subdivisions created by the General Court and including cities and towns.
- (b) The initiation of any particular investigation, audit or review shall be within the discretion of the Inspector General.

1.04: continued

(2) Complaints, Information or Referrals

(a) Complaints, information or referrals may be received by the Office of the Inspector General from any source.

(b) Complaints, information or referrals received, including the identity of the complainant or informant or referral source, are records of the Office of the Inspector General. Such records are not public records within the meaning of M.G.L. c. 4, § 7 clause 26 and shall be kept confidential unless disclosure is deemed necessary in the performance of the duties of the Office.

(c) Notwithstanding the provisions of 945 CMR 1.04(2)(b) or (d) or 1.04(3), disclosure of the existence or content of a complaint or information or the identity of a complainant or informant may be made by the Inspector General to the Inspector General Council.

(d) A complainant or informant, other than a public employee covered by 945 CMR 1.04(3) may request anonymity or nondisclosure of his identity to specified persons or organizations. Such requests shall be in writing and shall be honored by the Inspector General and his agents and employees unless the Inspector General determines that such disclosure is necessary in relation to an investigation, audit or review, notice or referral being planned or conducted by the Office. Nonconsensual disclosure shall only be authorized when deemed necessary. Prior to making a nonconsensual disclosure, the Inspector General shall cause to be mailed, by certified mail, to a complainant or informant at his last and usual address, if known, notice of such nonconsensual disclosure. Upon such mailing the Inspector General may make the nonconsensual disclosure.

(3) Complaints or Information from Public Employees

(a) For purposes of this 945 CMR 1.04(3), "public employee" is a person performing services for, or holding an office, position, employment or membership in a federal, state, county or municipal agency, whether by election, appointment, contract for hire or engagement, whether serving with or without compensation, on a full time, regular, part time, intermittent or consultant basis.

(b) The identity of a complainant or informant who is a public employee shall not be disclosed without the written consent of such public employee unless the Inspector General determines that such disclosure is unavoidable or necessary in relation to an investigation, audit or review, notice or referral being planned or conducted by the Office.

(c) Such written consent may specify certain individuals or organizations to whom disclosure is authorized and exclude others, or specify other limitations or conditions on disclosure. Such consent shall be signed by the public employee and shall be maintained as part of the case file or other pertinent record maintained by the Office of the Inspector General.

(d) In the event that the Inspector General determines that nonconsensual disclosure is unavoidable or necessary, the public employee shall be notified in writing at least seven days prior to such disclosure.

(e) In the event that a public employee complainant or informant is subject to an adverse personnel action related to his or her complaint or disclosure of information to the Office of the Inspector General, the Inspector General or his designee may present evidence concerning the circumstances or content of the complaint or information or the circumstances and scope of the disclosure of the identity of the complainant or informant in any forum or tribunal considering or determining the rights of the complainant or informant under M.G.L. c. 12A, s. 14(c).

1.05: Conduct of Investigations, Audits or Reviews

(1) General

(a) The scope, duration, conduct and disposition of any investigation, audit or review undertaken by the Office shall be within the lawful discretion of the Inspector General; provided however, that the Inspector General Council shall approve requests for summonses for testimony under 945 CMR 1.06(2) and referrals of investigative or audit findings to public agencies other than the Attorney General of the Commonwealth or United States Attorney under 945 CMR 1.09(3).

1.05: continued

(b) In conducting an investigation, audit or review, the Inspector General or his employees or agents may interview persons; examine books, records, files, documents or other materials; seek to compel production of testimony or documents; or take any other action deemed necessary for the conduct of such investigation, audit or review that is permitted by law and the provisions of 945 CMR 1.00.

(2) Interviews

(a) The Inspector General, his employees, or agents may interview any person who he believes may have information relevant to any matter under investigation, audit or review. The person to be interviewed shall be informed of his constitutional rights relating to said interview.

(b) A person to be interviewed may have counsel present at said interview. The Office shall not appoint or provide counsel.

(c) A person interviewed by an employee or agent of the Office may, at his own cost, provide that the interview be recorded by hand, sound recording, or stenographic means.

(d) Interviews may be taken under oath or affirmation and if so, shall be recorded by hand, sound recording, or stenographic means. If an interview taken under oath or affirmation is recorded by hand, the interviewee shall read the interview record and indicate, by the signing of a jurat, that it is true and that the record accurately reflects the content of the interview. The accuracy of interviews taken under oath or affirmation and recorded by sound recording or stenographic means shall be attested to by the stenographer preparing the transcript. Oaths shall be administered by a notary public or other person authorized to administer oaths under the laws of the Commonwealth.

(3) Access to Records, Information and Assistance from Public Bodies

(a) The Inspector General, his employees or agents, shall have access to records, documents or other materials related to the programs and operations within the jurisdiction of the Office, which are maintained by or available to any public body; excepting records under the provisions of M.G.L. c. 66, § 18 as defined in M.G.L. c. 66, § 3.

(b) The Inspector General, his employees or agents, shall have access to information related to the programs and operations within the jurisdiction of the Office which is possessed by or available to persons employed by or acting on behalf of any public body. The Inspector General, his employees or agents shall, upon request, be entitled to interview or question employees, agents or representatives of such public body.

(c) The Inspector General, his employees or agents, may request from any public body such assistance as may be necessary for carrying out his duties and responsibilities.

(d) Upon request of the Inspector General, his employees or agents, the person in charge of the governing body of any public body shall provide the Inspector General or his designee with the records, information or assistance requested, unless provision of such records, information or assistance is in contravention of any law applicable to such public body.

(e) When records, information or assistance requested under 945 CMR 1.05(3)(a), (b) or (c) are, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General may report the circumstances to the appropriate state secretariat, municipal governing body or other authority.

(4) Access to Records, Information or Testimony of Private

Individuals or Entities The Inspector General, his employees or agents, may request production of records, documents, information or testimony from any private person, firm or other nongovernmental entity which relate to any investigation, audit, review or other activity within the jurisdiction of the Office.

(5) Access to Contractor Records

(a) For purposes of 945 CMR 1.05, the words contractor, contract, records, statement of management, and financial statement shall have the meaning and content defined in M.G.L. c. 30, § 39R.

1.05: continued

- (b) All contractors shall make available for inspection upon request of the Inspector General or his designee any books, documents, papers or records of the contractor and/or the records of any subcontractor that directly pertain to, and involve transactions relating to, transactions between the contractor and subcontractor.
- (c) All contractors holding contracts with the Commonwealth within the meaning of M.G.L. c. 30, § 39R(a)(2), shall in addition to 945 CMR 1.05(5)(b), make available for inspection upon request of the Inspector General or his designee, all financial statements or statements of management required by M.G.L. c. 30, § 39R with accompanying exhibits. The Inspector General or his designee may, in addition, request and obtain such information from the appropriate awarding authority.
- (d) Failure to make, retain or produce for inspection the records and statements required by M.G.L. c. 30, § 39R may be grounds for disqualification or debarment under M.G.L. c. 149, § 44c. The Inspector General shall report instances of non-cooperation or non-compliance with the provisions of M.G.L. c. 30, § 39R, to the Division of Capital Planning and Operations and the awarding authority for appropriate action.
- (6) Production of Records of Testimony The Inspector General, or his employees or agents, may request that records, documents or testimony sought under 945 CMR 1.05(2) through (5) be delivered or produced at the offices of the Inspector General, examined on site, or at a place and time mutually agreeable to the parties.
- (7) Confidentiality of Records All records of the Office of the Inspector General are confidential and shall not be disclosed or made public by the Office unless disclosure or publication is deemed necessary for performance of the statutory duties and responsibilities of the Office pursuant to the requirements of M.G.L. c. 12A.

1.06: Summonses

- (1) Summonses for Records and Documents
- (a) The Inspector General may issue summonses requiring the production of any records, reports, audits, reviews, papers, books, documents, recommendations, correspondence or other material relevant to any matter under investigation, audit or review by the Office; excepting records subject to the provisions of M.G.L. c. 66, § 18 as defined in M.G.L. c. 66, § 3.
- (b) A summons issued pursuant to 945 CMR 1.06 (1)(a) may be issued to any person, private organization or public body, including, without limitation, any officer, partner, proprietor, employee, or custodian of records of any private organization or public body.
- (c) A summons issued pursuant to 945 CMR 1.06(1)(a) shall be served in the same manner as are summonses for the production of documents in civil cases issued on behalf of the Commonwealth.
- (d) Books and papers produced pursuant to a summons issued under 945 CMR 1.06(1)(a) shall be retained by the Office of the Inspector General for so long as needed for completion of the investigation, audit or review being conducted. A person who has produced records pursuant to such a summons issued under 945 CMR 1.06(1)(a) may request the Inspector General to provide access to the records for inspection or copying at the party's expense. Such access shall be permitted at any reasonable time excepting only when it unduly interferes with the Office or its staff.
- (e) A summons issued pursuant to 945 CMR 1.06(1)(a) shall be approved and issued by the Inspector General or his designee. For purposes of 945 CMR 1.06(1)(e), the designees of the Inspector General shall be restricted to the First Assistant Inspector General, Assistant Inspector General for Investigations and General Counsel as authorized to approve and issue summonses for records and documents.
- (f) The person to whom a summons is issued pursuant to 945 CMR 1.06(1)(a) may seek modification of the scope or conditions for compliance with the summons by applying in writing within five calendar days to the Inspector General or his designee identified on the summons. Such application shall state with particularity the extent of the requested modification and the reasons thereof. The scope or conditions for compliance with a summons may be modified only by the Inspector General or his designee.

1.06: continued

(g) In the case of public bodies or officials, records, documents or other material shall ordinarily be sought first by request for voluntary production rather than by issuance of a summons under 945 CMR 1.06(1)(a), unless doing so would, in the judgment of the Inspector General, unduly interfere with the investigation, audit or review being conducted.

(h) Neither the issuance of a summons nor any record or document produced under 945 CMR 1.06(1) shall be made public by the Inspector General or any officer, employee or agent of the Office.

(2) Summonses for Attendance, Testimony and Production of Books and Records

(a) The Inspector General may issue summonses requiring any person to attend and testify under oath or affirmation at a private session or to attend and testify under oath at a private session and to produce books and records, if the Inspector General has reason to believe that such person has information relevant to any matter under investigation, audit, or review by the Office.

(b) A summons issued pursuant to 945 CMR 1.06(2)(a) shall be issued only with the prior affirmative vote of six members of the Inspector General Council.

(c) The Inspector General may convene a meeting of the Inspector General Council at any time for the purpose of seeking and obtaining approval for issuance of a summons under 945 CMR 1.06(2)(a).

(d) To seek and obtain approval for issuance of a summons under 945 CMR 1.06(2)(a), the Inspector General or his designee shall present to the Inspector General Council a report which shall include, but is not limited to: the name and address of the prospective witness, a summary of the status of the investigation, a statement of reasons for requesting the summons, and a summary of the general scope of inquiry to be made of the prospective witness. The Inspector General Council may request, and the Inspector General shall provide, additional relevant information. If the Inspector General has determined that it is necessary to the conduct of the investigation, audit or review to provide the prospective witness with less than forty-eight (48) hours' notice of the requirement to attend and testify at a private session or to attend and testify and produce books and records, he shall include in his report a statement of reasons for the necessity of a shortened notice period and a recommended date and time for the convening of the private session. The prior approval of six members of the Inspector General Council shall be required for issuance of a summons under 945 CMR 1.06(2)(a) for attendance and testimony and the production of books and records with less than 48 hours' notice to the prospective witness.

(e) If issuance of a summons under 945 CMR 1.06(2)(a) is approved by six members of the Inspector General Council, the Council shall determine those persons before whom the prospective witness shall attend and testify under oath or affirmation at a private session. The Inspector General Council shall select at least one person to participate in the taking of such testimony. It may, in its discretion, select more than one person. The person or persons selected by the Inspector General Council shall be the Attorney General or his designee; or the State Auditor or his designee; or the Secretary of Public Safety or his designee; or the State Comptroller or his designee; or another member or members of the Inspector General Council. The Inspector General shall designate at least one employee of the Office, who is an attorney admitted to practice in the Commonwealth, to participate in the taking of testimony at such private session. The designee of the Inspector General shall be approved by the Inspector General Council. Selection or approval of persons to participate in the taking of testimony at the private session shall be by majority vote of those members of the Inspector General Council present and voting.

(f) Summonses issued pursuant to 945 CMR 1.06(2)(a) shall be served in the same manner as are summonses for witnesses issued on behalf of the Commonwealth in a civil case.

(g) A person summonsed under 945 CMR 1.06(2)(a) to attend and testify and produce books and records shall produce such books and records at the private session if directed to do so, or at any other time and place required or agreed upon by the First Assistant Inspector General or other employee of the Office selected to participate in the taking of testimony at the private session and the prospective witness or his attorney.

(h) A witness required by summons to attend and testify, or attend and testify and produce books and records, shall be provided with the following:

1. No less than 48 hours notice of the time and place of the private session, unless

1.06: continued

shorter notice has been approved in advance by six members of the Inspector General Council;

2. Notification of the matter under investigation concerning which the witness will be asked to

testify;

3. A copy of these Rules of Procedure;
4. Notification that his or her testimony will be taken at a private session;
5. Notification that the issuance of the summons was approved by six members of the Inspector General Council;
6. Notification as to whether the witness is the subject of an investigation;
7. Notification that the witness has a right to consult with and have an attorney present at the time such testimony is taken, and that he has a constitutional right not to furnish or produce evidence which may tend to incriminate him.

Failure to provide any notice or information required by 945 CMR 1.06(2)(h) shall render the summons invalid.

(i) Any request by a prospective witness for a change of the date or time of his appearance to attend and testify or to attend and testify and produce books and records at a private session must be received by the Office of the Inspector General no later than 24 hours before the witness is scheduled to testify. The request must be in writing and must state the reasons for the requested change. The request must be addressed to the attention of the Inspector General, who shall refer it to the persons selected or approved by the Inspector General Council to participate in the taking of testimony at the private session. Such persons shall have discretionary authority to grant such a request. A request will ordinarily be allowed if it is not made for purposes of delay and if allowing the request will not unduly interfere with the conduct of the investigation or audit.

(j) Any objections of a witness to a summons issued pursuant to 945 CMR 1.06(2)(a) must be made in writing, must state the reasons for the objection, must be addressed to the attention of the Inspector General, and must be received by the Office of the Inspector General no later than 24 hours before the witness is scheduled to attend and testify, or to attend and testify and produce books and records.

(k) A witness who is required by summons issued pursuant to 945 CMR 1.06(2)(a) to attend and testify, or to attend and testify and produce books and records at a private session, may file a sworn written statement with respect to any facts which the witness wishes to bring to the attention of the Office of the Inspector General. Such statement shall be made part of the record of the private session. Such statement may be filed in advance of the private session, at the time of the taking of testimony, or within five days after the private session has been concluded or adjourned.

(l) The issuance of a summons under 945 CMR 1.06(2)(a) shall not be made public by the Inspector General, any officer or employee of the Office, any member of the Inspector General Council, or any person designated to hear testimony under 945 CMR 1.06(2)(e). Unauthorized disclosure of the issuance of a summons shall be subject to criminal penalties pursuant to St. 1980, c. 388, s 2.

1.07: Enforcement of Summons

(1) Motions to Quash Any person, private organization or public body summonsed to produce books and records pursuant to 945 CMR 1.06(1)(a) or any person summonsed to attend and testify or attend, testify and produce books and records pursuant to 945 CMR 1.06(2)(a) may object to the summons, in advance of its return date, by the filing of a motion to quash in the Superior Court for Suffolk County. The filing of a motion to quash shall stay all proceedings before the Office of the Inspector General with respect to the pending summons until further order of the Superior Court.

1.07: continued

(2) Motions for Enforcement If any person, private organization, or public body refuses or fails to comply with a summons issued by the Inspector General pursuant to 945 CMR 1.06(1)(a) or (2)(a), or fails to answer questions asked at a private session convened pursuant to a summons issued under 945 CMR 1.06(2)(a), the Inspector General may apply to any justice of the Superior Court for an order compelling the attendance of the witness and the giving of testimony under oath or affirmation at a private session or the production of books and records.

(3) Contempt As provided by M.G.L. c. 12A, § 9 and St. 1980, c. 388, s 2, failure to obey any order of the Superior Court with respect to any summons issued by the Office of Inspector General may be punished by the court as contempt.

(4) In Camera Hearings If a justice of the court compels any witness to answer before the court any questions previously put to the witness in a private session, the Inspector General shall apply to such justice for an order that the public be excluded from such sitting of the court and that all related books, records or other papers and reproductions thereof be impounded.

1.08: Conduct of Private Sessions

(1) General

(a) Private sessions shall be held to take the testimony of persons who are required to attend and testify under oath or affirmation pursuant to 945 CMR 1.06(2)(a).

(b) The testimony of a witness at a private session shall be taken under oath administered by a notary public or other person authorized by the laws of the Commonwealth to administer oaths.

(c) Testimony at a private session shall be recorded by a stenographer employed or engaged by the Office of the Inspector General.

(d) Private sessions shall be governed by the same provisions as to secrecy that govern proceedings of a grand jury. No person shall be allowed to be present during a private session other than those persons designated to receive testimony pursuant to 945 CMR 1.06 (2)(e), other staff of the Office if authorized by the Inspector General, the witness, counsel for the witness, and stenographers or interpreters employed or engaged by the Office of the Inspector General.

(e) Counsel from the Office of the Inspector General designated to hear testimony at a private session shall inform each witness, before the witness testifies, that the witness has the right to exercise his privilege against self-incrimination in response to any question.

(f) A witness may be questioned by any person selected or approved by the Inspector General Council to hear testimony or by any other employee of the Office designated by the Inspector General.

(g) A witness shall have the right to be represented at a private session by counsel of his choice. Counsel shall file a written notice of appearance with the Office before representing a witness at a private session.

(h) Failure to obtain counsel or to have counsel present at a hearing will not excuse a witness from attending or testifying in response to a summons issued under 945 CMR 1.06(2)(a), unless the witness shows that he has made a good faith effort to obtain counsel and to have counsel present and has been unable to do so for reasons beyond the witness's control, and the witness promptly notifies the Inspector General or other person designated to hear testimony at the private session of his inability to obtain counsel or to have counsel present at the private session.

(i) The witness shall be notified that he has a constitutional right not to furnish evidence or answer questions which may tend to incriminate him. If a witness claims the privilege, he shall not be required to answer the question at that time.

(j) The examination of witnesses pursuant to summons shall be governed by the same provisions which govern proceedings of a grand jury.

(k) Counsel for the witness shall not be permitted to examine or cross-examine the witness, but the witness shall have the right to consult with counsel.

1.08: continued

(l) At the close of his testimony, a witness may make a closing statement. A witness may be asked additional questions after his closing statement. As provided in 945 CMR 1.06(2)(k) a witness may, in addition, file a sworn statement for inclusion in the record of the private session.

(m) Complete transcripts shall be prepared of all testimony taken at a private session. The transcript of a witness's testimony shall be made available to the witness for inspection at the Office of the Inspector General. The witness may obtain a copy of the transcript at cost from the Office or directly from the stenographer.

(n) The witness or counsel for the witness shall be notified by the Office when a transcript of testimony is available. The witness shall have ten days (excluding Saturdays, Sundays and legal holidays) to indicate to the Office any inaccuracies in the transcript. Counsel for the Office of the Inspector General, in his discretion, may agree to correct the transcript as requested. If counsel fails or refuses to change the transcript, the witness's proposed list of inaccuracies shall be appended to the transcript.

(o) Transcripts of testimony taken at a private session shall be kept confidential subject to the same provisions with reference to secrecy which govern grand jury proceedings. Disclosure of such testimony may be made to members of the staff of the Office of the Inspector General if necessary to assist the Inspector General in the performance of his duties. Unauthorized disclosure of testimony taken at a private session shall be subject to criminal penalties pursuant to St. 1980, c. 388, § 2.

1.09: Report and Referral of Investigative or Audit Findings

(1) Reports of Possible Criminal Violations

(a) When the Inspector General has reasonable cause to believe that a person under investigation or audit has violated state or federal criminal law, he shall so report and refer relevant investigative or audit findings to the Attorney General for the Commonwealth or appropriate United States Attorney.

(b) The Inspector General, may upon request of the Attorney General for the Commonwealth or United States Attorney, continue to provide investigative or other assistance subsequent to such report and referral.

(c) Prior to such time as the Inspector General has, through investigation or audit, developed sufficient information to justify a report or referral of findings to the Attorney General for the Commonwealth or the United States Attorney, he may confer or consult with these officers or their designees as to the conduct or scope of the investigation.

(2) Referral of Possible Civil Recovery Action

(a) When the Inspector General believes that a matter may be appropriate for civil action to recover monies on behalf of the Commonwealth, he shall so report to the Attorney General for the Commonwealth and refer relevant investigative or audit findings.

(b) The Attorney General shall determine what further action is appropriate.

(c) With the approval of the Attorney General, the Inspector General is authorized to commence civil recovery actions on behalf of the Commonwealth in an appropriate state or federal court.

(3) Referrals to Public Agencies other than the Attorney General for the Commonwealth or United States Attorney

(a) Subsequent to an investigation or audit, the Inspector General may refer investigative or audit findings and underlying evidence to the State Ethics Commission, or to any other federal, state or local agency which has an interest in such findings.

(b) A referral of investigative or audit findings and evidence under 945 CMR 1.09(3)(a) may be made upon recommendation of the Inspector General and when authorized by a majority vote of the Inspector General Council.

1.09: continued

(c) The Inspector General may provide notice of the existence or content of complaints or information received by the Office of preliminary investigative or audit information developed by the Office, to interested federal, state or local agencies. Such notice shall not be deemed a referral within the meaning of 945 CMR 1.09(3)(a). Notice is appropriate if the subject of the complaint or information is not within the jurisdiction of the Office or if the Inspector General has determined that the matter shall not be subject to full investigation, audit or review by the Office and may be appropriate for administrative action by another public agency. Notice of the identity of the complainant or informant is subject to the provisions of 945 CMR 1.04(2) or (3).

(4) Disclosure of Investigative or Audit Findings and Data The report, referral or disclosure of investigative or audit data or findings pursuant to 945 CMR 1.09(1)(a) or (c), 1.09(2)(a) or 1.09(3)(a), including the identity of complainants or informants, shall not be deemed a disclosure of records of the Office subject to the provisions of 945 CMR 1.04(2) or (3) and the requirements of M.G.L. c. 12A.

1.10: Inspector General Reports

(1) Annual and Interim Reports on the Activity of the Office

(a) In accordance with M.G.L. c. 12A, § 12, the Office of the Inspector General shall file an annual report. The Inspector General may, in addition, issue interim reports on the activities of the Office, significant problems encountered and recommendations for change.

(b) Annual and interim reports shall be forwarded to the Governor, President of the Senate, speaker of the House of Representatives, Chairman of the House and Senate Committees on ways and means, the Executive Directors of the Legislative Post-audit Committees and the Secretary of Administration and Finance and shall be made available to the public.

(c) The Inspector General may issue special reports relating to the prevention or detection of fraud, waste and abuse in programs and operations within the jurisdiction of the Office. Such special reports shall be disseminated to the public and, in addition, to the responsible official or governing body of any public body which is the subject of such report. In the case of a state agency, a copy of a special report shall be forwarded to the appropriate state secretariat. Such special reports may include specific recommendations of the Inspector General for policies and practices which will assist in the prevention or detection of fraud, waste and abuse.

(d) If any annual, interim or special report of the Office of the Inspector General contains findings critical of the practices, policies or procedures of any public body related to the prevention or detection of fraud, waste or abuse, the Inspector General may request a written response to such critical findings. The head or governing body of a public body from whom the Inspector General requests a response shall have 30 days from the date of issuance of the report to submit such a written response. The response shall be forwarded to those officials to whom a copy of the original report was disseminated.

(e) If any annual, interim or special report of the Office of the Inspector General makes specific recommendations for the elimination, modification, or implementation of the practices, policies or procedures of any public body related to the prevention or detection of fraud, waste and abuse, the Inspector General may require a periodic reporting from the affected public body as to action taken in response to such recommendations.

1.11: Cooperation with Public Bodies and Private Entities

(1) Assistance to Public Agencies Upon request of a public body involved in the expenditure of public funds or use of public property for the purpose of procurement of construction, supplies or services, and subject to the availability of resources, the Inspector General may provide assistance, including the assignment of personnel, to assist such public body for the purpose of formulating and implementing policies or procedures which will aid in the prevention or detection of fraud, waste or abuse.

1.11: continued

- (2) Development and Recommendation of Policy The Inspector General may recommend policies for the coordination of efforts by public and private bodies to prevent and detect fraud, waste and abuse. The Inspector General may convene ad hoc or ongoing committees or task forces composed of representatives of public bodies, private entities and individuals to advise and assist the Office in the development of policies or procedures related to the prevention or detection of fraud, waste and abuse.
- (3) Coordination with Investigative or Law Enforcement Agencies
- (a) To avoid duplication of effort and maximize utilization of resources, the Inspector General may enter into memoranda of understanding or other agreements with local, state or federal investigative or law enforcement agencies. Such memoranda or agreements may involve, but are not limited to, matters such as information sharing, declination policy, cross designation of personnel, and coordinated or joint investigations on co-jurisdictional investigations or audits.
- (b) Any memoranda or agreement entered into under 945 CMR 1.11(3)(a) shall incorporate as a condition of agreement that any information, records or documents of the Office of Inspector General which are provided by the Office to the cooperating investigative or law enforcement agency shall be treated as confidential.
- (c) When records of the Office of Inspector General are shared in the course of an investigation or audit with a cooperating investigative or law enforcement agency, officers, employees or agents of such agency shall be bound by all statutes, rules or regulations applicable to the Office regarding confidentiality of records, documents or testimony.

1.12: Requests for Information

- (1) Public Information All requests to the Office for public records shall be directed to an Assistant Inspector General who shall initially determine whether the requested documents are public records within the meaning of M.G.L. c 4, § 7, clause 26. The Assistant Inspector General shall make a written report to the General Counsel indicating the reasons for the initial determination. If the General Counsel determines that the requested documents are public records, he shall authorize inspection of such records by the requesting party or release of a copy of such records to the requesting party upon receipt of reimbursement for the costs of reproduction.
- (2) Non-Public Information All requests for records or documents not public within the meaning of M.G.L. c .4, § 7, clause 26 and M.G.L. c. 12A, § 13 shall be directed to the Inspector General who shall respond to such request.

1.13: Delegation by the Inspector General

Unless otherwise prohibited by law, the Inspector General may delegate any power or function granted to him by statute, rule or regulation to any employee or agent of the Office as he deems proper for the necessary performance of his duties.

1.14: Responsibility of Staff

- (1) Confidentiality It shall be the responsibility of the Inspector General and his staff to ensure proper confidentiality of information concerning matters under investigation, audit or review by the Office pursuant to the requirements of M.G.L. c. 12A.
- (2) Conduct Employees shall not engage in any conduct which reflects unfavorably upon the Office of Inspector General. They shall perform their official duties at all times with complete fairness and impartiality. Employees are prohibited from engaging in any conduct which is intended to secure private gain, give preferential treatment to any person or prevent any person from securing benefits to which he is entitled. Employees are further prohibited from engaging in any conduct which creates or tends to create the impression that they will use their office for these purposes.

945 CMR: OFFICE OF THE INSPECTOR GENERAL

1.14: continued

(3) Personnel Regulations All employees of the Office shall abide by the provisions of the Personnel Regulations issued by the Inspector General.

1.15: Amendment or Repeal of 945 CMR 1.00

The Inspector General may seek amendment or repeal of 945 CMR 1.00 or any section thereof in accordance with the procedures of M.G.L. c. 30A or M.G.L. c. 12A, § 6. Recommendations of the Inspector General as to amendment, repeal, or other change in these Rules shall be included in the annual report filed by the Inspector General.

REGULATORY AUTHORITY

945 CMR 1.00: M.G.L. c.12A, §§ 6 and 12; St, 1982, c. 528.