



OFFICE OF THE INSPECTOR GENERAL
COMMONWEALTH OF MASSACHUSETTS

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INSPECTOR GENERAL

Town of Abington
Department of Public Works

AUGUST 16, 2023



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The Commonwealth of Massachusetts Office of the Inspector General

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August 16, 2023

Via Electronic Mail

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Re: A Review of the Town of Abington's Department of Public Works

Dear Manager Lambiase, Chair Hagerty and members of the Abington Select Board:

Pursuant to Chapter 12A of the Massachusetts General Laws, the Office of the Inspector General (OIG) has conducted a review of the policies and practices of the Town of Abington's Department of Public Works (DPW) regarding disposal of scrap metal and other matters of concern.

In 2021, the OIG received a complaint about former DPW Assistant Superintendent John Caine's practice of selling scrap metal collected from various town projects to a recycling company and not remitting the cash to the town treasurer. During our investigation, we found that the town failed to implement several recommendations that the OIG made following a previous investigation into allegations of waste and abuse in the town's Highway Department.

The details of the scrap metal investigation and the issues uncovered and not addressed in the previous investigation are outlined in the attached report.

Based on the findings of both investigations, the OIG makes recommendations to the town that, if acted upon, will more effectively mitigate against waste, fraud and abuse of town resources. The OIG strongly suggests that, as the town leaders, you institute the recommended actions to protect the town and its public resources.

Should you have any questions about our report or seek assistance in ways to implement our recommendations, please contact us. Thank you for your commitment to helping make government work better tomorrow than it does today and for being responsible stewards of public resources.

Sincerely,



Jeffrey S. Shapiro
Inspector General

cc (via email):

Auditor Diana DiZoglio

David A. Wilson, Executive Director, State Ethics Commission

State Senator John F. Keenan

State Representative Alyson M. Sullivan-Almeida

Sean Cronin, Senior Deputy Commissioner, Dept. of Local Services, Mass. Department of Revenue

Rich Massina, Abington Town Attorney

INSPECTOR GENERAL COUNCIL

Christopher Walsh, Chair – By Governor’s appointment

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Attorney General Andrea Campbell – By statute

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EXECUTIVE SUMMARY

Upon receiving a complaint in 2021, the Office of the Inspector General for the Commonwealth of Massachusetts (OIG) began investigating the Town of Abington (town) Department of Public Works' (DPW or department) process for disposing of scrap metal. The OIG's review revealed the DPW's former assistant superintendent collected scrap metal from town projects, sold it to a scrap metal recycling company and failed to remit the cash proceeds to the town treasurer. The OIG found that the town violated state procurement laws by not following proper procedures for disposing of surplus items and that the former DPW assistant superintendent did not comply with the town's policies for submitting cash receipts. The OIG further concluded that the town's lack of internal controls left it vulnerable to theft.

During its review, the OIG also found that the town had not implemented recommendations made in 2017 as a result of an OIG investigation into allegations of fraud and waste within the town's former Highway Department, which merged into the DPW in 2016. Among other matters of concern, the town continued to allow DPW employees to service non-town-owned vehicles in the DPW garage, despite the OIG's 2017 recommendation against that practice.

To address the issues uncovered during both investigations, the OIG now recommends that the Town of Abington take the following actions:

1. Review and update procurement policies to be consistent with Chapter 30B of the Massachusetts General Laws (Chapter 30B) and educate employees on those policies;
2. Adopt policies consistent with Chapter 30B for the disposal of surplus items valued at less than \$10,000;
3. Ensure compliance with policies for the disposal of surplus items, including those valued at less than \$10,000;
4. Ensure compliance with the town's cash turnover process;
5. Review and update internal control policies regarding cash receipts;
6. Ensure employees handling cash payments are trained and understand the town's turnover process and internal control policies regarding cash receipts;
7. Ensure that funds appropriated for a specific purpose are used for the stated purpose;
8. Ensure that additional salary provided for a specific purpose achieves the intended purpose;
9. Create and maintain an inventory of town-owned vehicles and small equipment;
10. Adopt a written policy prohibiting employees from working on non-town-owned vehicles on town property;
11. Adopt a written policy prohibiting employees' personal use of town equipment;
12. Institute procedures to ensure that oversight or audit recommendations are effectively communicated to new town administrators; and
13. Require the town's procurement-related officials to obtain Massachusetts Certified Public Purchasing Official (MCPPO) certifications.

BACKGROUND

I. The Office of the Inspector General

The Office of the Inspector General for the Commonwealth of Massachusetts (OIG) is an independent state agency charged with preventing and detecting fraud, waste and abuse in the use of public funds and assets in Massachusetts. In keeping with its statutory mandate, the OIG reviews programs and practices in state agencies and municipalities to identify fraud, systemic vulnerabilities and opportunities for improvement. The OIG assists both the public and private sectors in preventing fraud, waste and abuse in government spending.

II. Town of Abington Department of Public Works

The Town of Abington (town) is located 20 miles south of Boston and has a population of approximately 17,000.¹ The town is governed by a five-member Board of Selectmen, which appoints a town manager. In 2016, the town received approval from the Massachusetts Legislature to combine its Highway Department, Parks Department and Sewer Department into one central Department of Public Works (DPW). The DPW is now responsible for all the functions and operations of the previous departments, including maintaining and repairing town-owned equipment, property and vehicles; purchasing public works supplies; and managing the town's public works contracts and construction.

When merging the three departments into the new DPW, the town appointed then-Interim Highway Superintendent John Caine as the DPW's assistant superintendent for vehicle maintenance, reporting to the department's director.

During his many years of town employment, Caine had served as both assistant and interim superintendent of the former Highway Department, overseeing DPW functions such as vehicle maintenance, snow removal, paving and sweeping. Caine was also responsible for purchasing and disposing of surplus supplies, equipment, vehicles and tools for the DPW functions he managed.

The town terminated Assistant Superintendent Caine's employment in 2022.

III. The OIG's Previous Investigation of the Abington Highway Department

Between 2013 and 2017, the OIG investigated multiple allegations of fraud and waste in Abington's former Highway Department, with some allegations dating back to 2008. On August 8, 2017, the OIG met with town officials, including the then-town manager and DPW director, to review the OIG's findings and to request that the town develop a corrective action plan. The OIG and town officials discussed the following:

¹ The U.S. 2020 Census placed Abington's population at 17,062.

1. The Highway Department permitted its mechanics, including Caine, to use the department's garage to conduct repairs on non-town-owned vehicles after business hours. The town justified this practice on the grounds that mechanics were required to provide their own hand tools as a condition of employment and it was impractical to expect them to transport those tools on a daily basis. However, this practice created a significant liability for the town, a potential for misuse of town-owned equipment and supplies, and a potential violation of the state's conflict of interest laws. This practice continued after the Highway Department merged into the DPW.
2. The DPW lacked inventory control for its vehicles, small engine equipment and IT equipment. As a result, the OIG found that the town did not provide its vehicle insurance company with an up-to-date fleet list. Further, the OIG found that the DPW often let employees borrow equipment for personal use. In one instance, a Highway Department manager arranged for the town to purchase a MacBook Pro for his use, but he failed to return it when he left the town's employment. After the OIG inquired about the laptop's whereabouts, a current employee contacted the former manager, prompting him to return it to the department. The town's IT staff determined that the user account on the laptop was in the name of a family member of the former manager, suggesting that the MacBook was not being used for town business and that the former employee had not intended to return it prior to being contacted.
3. The town did not have written procedures for the disposal of surplus supplies. In several instances, the town transferred surplus vehicles to employees, vendors or other parties. The OIG documented an instance in which Caine purchased a surplus Crown Victoria from the town for \$350, repaired it in the town's vehicle maintenance facility, and then sold it for \$3,000.
4. The town had a decentralized procurement process in which each department made its own purchases with limited oversight from the town manager, impacting the town's ability to aggregate purchasing for better pricing or to fully understand its spending or inventory levels.
5. Between 2010 and 2013, Assistant Superintendent Caine received significantly more overtime hours and overtime pay than any other employee. The OIG asked the town to review Caine's status and determine whether an assistant superintendent was eligible to receive overtime pay.

Following this meeting, the town manager sent a letter to the OIG, dated September 22, 2017, outlining the town's actions relating to the OIG's findings. The OIG responded on November 16, 2017, reiterating its findings, summarizing steps the town had taken, and requesting additional corrective actions. On January 24, 2018, and February 23, 2018, the town manager sent two additional letters to the OIG detailing the follow-up items requested. This series of correspondence is attached herein as Appendix A.

FINDINGS

In 2021, the OIG began investigating the Abington DPW after receiving a new complaint that Caine was selling scrap metal from DPW projects and not remitting the cash proceeds to the town treasurer. The findings from that investigation are discussed below.

I. The Town Did Not Implement Previous Corrective Actions.

While investigating the Abington DPW scrap metal complaint in 2021, the OIG discovered that the town had not implemented all of the corrective actions resulting from the 2017 investigation.

Despite the town manager's assurances of corrective action, several items discussed with the OIG remained unaddressed. The OIG found that the town failed to:

1. Adopt a written policy prohibiting employees from working on non-town-owned vehicles on town property;
2. Maintain an accurate inventory of town-owned vehicles and small equipment;
3. Implement a surplus disposition policy for supplies valued at less than \$10,000 in compliance with Chapter 30B; and
4. Adopt a centralized written procurement policy and properly train department heads and others with delegated procurement authority on that policy.

II. Caine Improperly Disposed of Town-Owned Scrap Metal and Failed to Remit Cash Proceeds to the Town Treasurer.

Under Assistant Superintendent Caine's direction, the DPW collected scrap metal from town projects and sold it to a scrap metal recycling company in Brockton, Massachusetts. The company pays a specific rate based on the type of material it receives and its weight, typically paying customers the same day they bring items in for sale. Caine did not remit the scrap metal cash proceeds to the town treasurer. According to Caine, the practice of selling scrap metal to the company for cash began decades ago and continued through the tenures of previous Highway Department superintendents. Caine claims he kept the cash in his desk drawer to buy food and beverages for DPW employees.

Historically, when the Highway Department accumulated a pile of scrap metal, department employees would transport the scrap metal to the company in return for cash. At some point prior to 2016, Caine arranged for the company to provide a dumpster to the Highway Department for scrap metal storage. When the dumpster was full Caine would contact a local tow operator; the operator, in turn, would transport the dumpster from the DPW yard to the company and return with an envelope of cash, which he gave to Caine.

The OIG contacted the town in May 2021 after receiving a complaint about this arrangement. When the then-assistant town manager asked Caine about the matter, Caine turned over more than \$3,000 in cash that he had stored in his desk drawer. The town thereafter terminated Caine's employment and ended its relationship with the scrap metal company.



Scrap metal from town projects was stored in this dumpster located in the DPW yard. (Photo by OIG staff)

The company provided records to the OIG showing that it paid more than \$9,000 for scrap metal the town delivered between 2016 and 2021.

This practice is problematic in three ways. First, it violates the Commonwealth's procurement laws. According to Chapter 30B, surplus supplies with a resale or salvage value of less than \$10,000 can be disposed of using any method authorized by the "written procedures approved by the governmental body."²

However, the town had no written procedures governing the disposal of surplus supplies valued at less than \$10,000. If a town does not have written procedures, it must follow the process outlined in Chapter 30B for surplus supplies with a value of more than \$10,000. Specifically, the town must dispose of the supplies "through competitive sealed bids, public auction, or established markets."³ The town did

² See M.G.L. c. 30B, § 15(f).

³ *Id.* at § 15(b).

not solicit bids or dispose of the scrap metal through a public auction. By using the same vendor for decades without obtaining price quotations, soliciting bids or conducting a public auction, the town violated Chapter 30B.⁴

Second, the scrap metal cash receipts needed to be remitted to the town treasurer and accounted for in the appropriate manner. The company is not a registered vendor with the town and there are no records of scrap metal transactions recorded with the town accountant or treasurer's office. If the scrap metal transactions were authorized, the company would have been remitting the funds to the town treasurer for each transaction and the town should have deposited those checks in a specific account. While DPW staff mishandled these cash transactions, they have routinely followed town procedures for receiving and turning over cash in other situations (such as for permits and parks and recreation concessions), demonstrating their knowledge of the rules.

Third, the DPW's disposal of scrap metal for cash provided no internal controls. Between 2016 and 2021, the company paid the town approximately \$6,000 more than Caine turned over to the town in 2021. However, the town has no documentation to show how Caine spent the money received from the scrap metal sales. Several long-tenured employees recalled receiving pizza and coffee on occasion, while many other DPW employees were unaware of the practice and do not recall ever receiving food or drinks. Even if this were the purpose for which the funds were used (though no audit, records or reconciliations exist to support the assertion), the practice would violate public finance law.

Additionally, some employees acknowledged they were aware that Caine stored cash in his desk drawer, which was sometimes unlocked, creating a risk of theft.

In any event, the OIG cannot verify through town records that \$9,000 was the actual total amount paid for the town's scrap metal. Further, because Assistant Superintendent Caine did not keep records of the cash receipts, the OIG cannot verify how much was spent or how it was spent.

III. Caine Continued to Use the Town's Maintenance Facility to Repair Non-Town-Owned Vehicles.

As summarized above, the OIG's previous investigation revealed that the town had an unwritten policy allowing Highway Department mechanics to perform "light work" on non-town-owned vehicles in the town garage after business hours with their personal supplies and hand tools. The town justified this policy on the basis that mechanics used their personal tools when working in the garage and that it was impractical for the mechanics to transport the tools between their homes and work in their personal vehicles.

⁴ The scrap metal vendor is not considered an "established market" for Chapter 30B purposes, notwithstanding its relationship with the town. The OIG has long interpreted an established market as one in which commodities are routinely sold, prices are set by competition, and the process typically reflects market values. Stock exchanges or certain online competitive marketplaces may satisfy these elements.

After receiving complaints in 2007 and 2012, the State Ethics Commission (Ethics) informed the then-highway superintendent that the town's repair policy on non-town-owned vehicles could violate the state's conflict of interest laws. Specifically, in a 2012 letter, Ethics advised the superintendent, "[I]f you knowingly or with reason to know, used or attempted to use your highway superintendent position to allow public resources for private purposes, then it appears you violated [the conflict of interest law]." In both 2007 and 2012, Ethics requested documentation of an approved written policy. In response to these requests, the town drafted policy language, but never approved or implemented the policy.

In 2012, the superintendent approached the then-town manager to request a written policy on personal vehicle repairs. The town manager emailed the superintendent and the Board of Selectmen, "I cannot in good conscience allow this work on town property to continue without the proper [insurance] coverage in place . . . I am not in favor of using municipal property for private purposes." The town manager told the OIG that even without an official policy in place, he believed that Highway Department staff would stop repairing non-town-owned vehicles on town property.

Contrary to the instructions and expectations of the town manager, department employees continued to repair non-town-owned vehicles on town property. In an August 2017 meeting, the OIG informed the town that Caine had repaired numerous vehicles in the town-owned garage and subsequently sold them on Craigslist. The OIG discussed its concerns over the town's practice of allowing mechanics to use the municipal garage for these purposes. Those concerns included overhead costs, liability and insurance issues; the potential for time abuse and inventory theft; and conflicts of interest.

After this meeting, the town manager told the OIG that "the Town of Abington plans to discontinue the practice of repair[ing] ... personal vehicles by DPW staff by July 1, 2018." He further explained that the town had appropriated additional funds for purchasing its own tools so that it could phase out its requirement that mechanics use their personal tools for town work. Nevertheless, Caine told the mechanics they were cleared to resume fixing their cars in the garage. Also, contrary to the town manager's directives, Caine never used the additional funding to purchase tools.

During his discussions with the town manager, Caine asserted that the town would need to "buy out" the tools he owned, which he estimated to have a value of more than \$200,000. Rather than buying out his tools, the town manager granted Caine a 4% raise. Subsequently, Caine continued to work on his personal vehicles, but required other DPW staff to seek his approval before working on their own cars. The new DPW director told the OIG that because the town manager did nothing to stop Caine and the other mechanics from working on non-town-owned vehicles after business hours, he also took no action. As a result, the practice persisted until 2021, even though Ethics had warned the town of its implications as early as 2012 and the OIG had likewise expressed its concerns in 2017.

When a new town manager was appointed in 2020, he was not informed of repairs to non-town-owned vehicles being made on town property, the 2012 Ethics opinion, or the OIG's recommendations from 2017. He stated that he never received copies of the previous letters between the town and the OIG (Appendix A).

In 2021, as the town investigated Caine's disposal of scrap metal, it also learned that repairs to non-town-owned vehicles in the town garage continued. The current town manager has since informed the OIG that he has ended the practice.

TIMELINE

2007

- State Ethics Commission (Ethics) receives complaints regarding the Town of Abington's practice of allowing repairs to non-town-owned vehicles in the town garage.
- Ethics requests documentation of an approved written policy.

2012

- Ethics receives complaints and sends a letter to town highway superintendent stating, "It appears you have violated [the state conflict of interest law]."
- Ethics again requests documentation of an approved written policy.

2017

- OIG advises the town that the practice of repairing non-town-owned vehicles in town facilities presents numerous problems.
- Town informs OIG that practice will stop by July 1, 2018.
- Town appropriates funds to purchase tools so that mechanics do not have to use their personal tools for town work.
- Town manager grants Assistant Superintendent Caine a 4% salary increase to cover the cost of his tools.

2020

- New Abington town manager is not informed of oversight agency concerns about repair to non-town-owned vehicles in town facilities.

2021

- During its investigation into the Abington Department of Public Works' scrap metal disposal, the OIG learns that repairs to non-town-owned vehicles are still occurring.

CONCLUSIONS AND RECOMMENDATIONS

The OIG found that the Town of Abington violated state procurement laws by improperly disposing of town-owned scrap metal. Additionally, the OIG concluded that former Assistant Superintendent Caine failed to follow the town's policies and procedures for turning over cash receipts. The OIG also found that the town's lack of internal controls related to the disposal of scrap metal made it vulnerable to theft.

The OIG also found that Caine continued to use the town's vehicle maintenance facility for repairs on non-town-owned vehicles despite the OIG's previous recommendation. The town's failure to adopt a formal policy prohibiting this practice may have violated state ethics laws and left the town vulnerable to fraud, waste and abuse of its assets.

To address these issues, the OIG now recommends that the Town of Abington take the following actions:

1. Review and update procurement policies to be consistent with Chapter 30B and educate employees on those policies;
2. Adopt policies consistent with Chapter 30B for the disposal of surplus items valued at less than \$10,000;
3. Ensure compliance with policies for the disposal of surplus items, including those valued at less than \$10,000;
4. Ensure compliance with the town's cash turnover process;
5. Review and update internal control policies regarding cash receipts;
6. Ensure employees handling cash payments are trained and understand the town's turnover process and internal control policies regarding cash receipts;
7. Ensure that funds appropriated for a specific purpose, *i.e.*, to purchase mechanics' tools, are used for the stated purpose;
8. Ensure that additional salary provided for a specific purpose, *i.e.*, Assistant Superintendent Caine's 4% salary increase, achieves the intended purpose;
9. Create and maintain an inventory of town-owned vehicles and small equipment;
10. Adopt a written policy prohibiting employees from working on non-town-owned vehicles on town property;
11. Adopt a written policy prohibiting employees' personal use of town equipment;
12. Institute procedures to ensure that oversight or audit recommendations are effectively communicated to new town administrators; and
13. Require the town's procurement-related officials to obtain Massachusetts Certified Public Purchasing Official (MCPPO) certifications.

APPENDIX A: PREVIOUS CORRESPONDENCE BETWEEN THE OIG AND THE TOWN OF ABINGTON

- I. Town Manager's Letter to OIG, dated September 22, 2017
- II. OIG's Response to Town Manager, dated November 16, 2017
- III. Town Manager's Letter to OIG, dated January 24, 2018
- IV. Town Manager's Letter to OIG, dated February 23, 2018



Town of Abington

OFFICE OF TOWN MANAGER

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ABINGTON, MA 02351

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RECEIVED

SEP 25 2017

OFFICE OF THE INSPECTOR GENERAL

September 22, 2017

Mr. Kevin Floster
Commonwealth of Massachusetts
Office of the Inspector General
1 Ashburton Place #1311
Boston, MA 02108

Dear Mr. Floster:

I appreciate our discussion on August 8, 2017 and the opportunity for our management staff to follow up with you on the aftermath of the concerns of the Inspector Generals' Office from years past. Below are specific matters that you requested that I discuss with our management staff and follow up with you in writing:

1. Repair of Personal Vehicles by Town Mechanics

Historically the town has allowed the two town mechanics that we employ to work on their own personal vehicles on their personal time at the town maintenance facility due to the fact that they use their own tools that they purchase with their personal funds; and, it is onerous for these employees to transport these tools back and forth from home to work each day as a condition of employment. It is the goal of the town to replace the tools that are personally owned by these mechanics with tools purchased and owned by the town either by reimbursing these employees or by purchasing new tools from a vendor for use by these employees. The DPW Director is working towards securing estimates for doing so in conjunction with the FY 2019 budget process. In addition these mechanics belong to separate collective bargaining units and the town has a bargaining obligation with regard to this change in working conditions if/when a decision is made as to the cost/benefit of the town purchasing tools. After our conversation we also sought counsel from our insurer who advised us as to multiple liability concerns (in addition to those that we were already cognizant) which further leads us to believe that we need to wean the town from this practice. Our insurer has been asked this question from other towns over the years and clearly does not recommend the practice either.

2. Inventory Control

- a. Fleet List - Although going back several years there may have been some question as to the accuracy of the towns' listing of vehicles this list for all departments (public safety, school, public works, administrative, etc) is updated annually with each department and cross-referenced with our insurer very carefully both for liability as well as budgetary purposes. Obviously as new vehicles are added and vehicles are re-

appropriated between departments our listings are updated internally, with our insurer, and, with the Registry of Motor Vehicles as necessary.

- b. Small Equipment – You will recall at the time of our discussion the DPW did not have formal listing of smaller equipment other than those that qualify to be listed as “contents” for property insurance purposes. We completely agree with the suggestion of your staff that that a spreadsheet program of small equipment including snow-blowers, tractors, weed-whackers, etc, is a “best practice” that should be implemented this year and DPW Director John Stone will be setting forth a timetable for doing prior to the end of FY 2018 in conjunction with other priorities contained herein.
 - c. Parts Inventory – Similar to “b” above the maintenance facility does not have a formal inventory program. Although it runs very smoothly in terms of meeting the needs of the departments, in order to help prevent theft and ensure confidence the department is investigating software programs for parts inventory also.
3. Policy Prohibiting Borrowing of Town Equipment unless authorized by DPW Director

Subsequent to (and as a result of) our discussion on August 8, the DPW Director believed that rather than a formal policy with variable conditions that it would be best to simply cease any borrowing of departmental equipment that may be occurring and has informed the department that no departmental equipment may be taken from the premises for personal use without the specific permission of the DPW Director.

4. Town Counsel Determination as to OT Eligibility of Jack Caine

This question has been posed to town counsel and also has collective bargaining implications.

5. Other – Policy Research and Implementation

In addition to the specific discussion items, the management staff has collected and is reviewing examples of policies related to Inventory Control, Procurement (beyond mere compliance with state law), and other Internal Controls for possible adoption.

6. CPO Training

The Town of Abington takes the legal requirements of public procurement very seriously – *as well as the public trust implications that necessitate these requirements.* Accordingly in the past few years our Assistant Town Manager, Town Accountant, Assistant Superintendant of Schools and Department of Public Works Director have all attained (and maintain) their Massachusetts Certified Procurement Officer Training Certifications.

I believe that this responds to the points that we discussed in August, but please let me

know if there are other areas that you wish for me to address or expound upon in greater detail, and I will be very pleased to follow up. Thank you for helping Abington through this challenging period. We will be much better off for it.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. LaFond', is written over the word 'Sincerely,'.

Richard J. LaFond
Town Manager



The Commonwealth of Massachusetts

Office of the Inspector General

GLENN A. CUNHA
INSPECTOR GENERAL

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November 16, 2017

Mr. Richard J. LaFond, Town Manager
Town of Abington
500 Gliniewicz Way
Abington, MA 02351

Re: Corrective Action Plan for the Town of Abington's Department of Public Works

Dear Mr. LaFond:

The Office of the Inspector General ("OIG") has reviewed your September 22, 2017 letter responding to concerns stemming from an OIG review of the Town of Abington's ("Town") Department of Public Works ("DPW") and the OIG's request that the Town provide a corrective action plan. As you know, the OIG review, as reported to Town officials in August 2017, found that the DPW allowed employees to repair personal vehicles using Town-owned facilities and equipment, lacked sufficient asset inventory controls, improperly disposed of surplus vehicles, and provided questionable overtime benefits to an employee. The review also found that the Town failed to ensure compliance with state procurement laws across departments.

This letter summarizes the issues identified by the OIG and the steps the Town has taken or will take to address its vulnerabilities to fraud, waste, and abuse of its public funds and resources.

Issue #1: Repair of personal vehicles by DPW staff

The Town has allowed DPW staff to work on their personal vehicles at the DPW vehicle maintenance facility with the understanding that staff would use their personal tools and that the work would be done during non-work hours. The practice originated because the Town required DPW mechanics to provide their own hand tools as a condition of employment, and staff stored the tools at the facility because it was considered impractical to transport the tools back-and-forth to work each day. Staff also used DPW equipment for their repair work. Despite advice from the State Ethics Commission, the Town does not have a written policy regulating this activity. The Town has also not addressed the potential costs and risks associated with this activity, including overhead costs, liability and insurance concerns, conflict-of-interest law concerns and the potential for time abuse and inventory theft by staff pertaining to these repair practices. The OIG informed the Town that at least one DPW employee used the practice to repair a recently-

purchased vehicle and then sell it for a profit. This employee met potential buyers on Town property, posted classified ads from a Town-associated IP address that listed his Town cellphone number, and included photos of vehicles taken in the maintenance facility.

OIG recommendation: Unless the Town identifies a compelling justification for continuing this practice, it should be discontinued. If the Town chooses to continue the practice, then it should immediately adopt a written policy that outlines proper use and restrictions and that conforms to the guidance provided previously by the State Ethics Commission. The Town should also address any liability and insurance concerns to reduce its financial and legal risk exposure. To address concerns that personal employee tools provided as a condition of employment justifies the vehicle repair practice, the Town should determine whether replacing these personal tools with town-owned tools would be cost effective.

Town response: The Town indicated that its goal is to replace employee-owned tools with Town-owned tools, but noted that this would result in a “bargaining obligation” under the collective bargaining agreement. The Town’s insurer advised the Town of multiple liability concerns regarding this practice. The Town will need to address these concerns.

Follow-up items: Please provide the OIG with the following:

1. Copies of existing collective bargaining agreements, highlighting the language that would result in a “bargaining obligation” if the Town eliminates the requirement that employees provide their own tools and discontinues the use of Town property for personal purposes.
2. A cost estimate for replacing employee-owned tools with Town-owned tools.
3. If the practice continues, the written policy governing the practice and a description of how the Town will address liability and insurance costs/concerns.
4. If the practice is discontinued, written notification of the change.
5. The policy regarding the use of town-owned tools with a prohibition on personal use.

Issue #2: Lack of DPW inventory control

The Town did not maintain an accurate list of town-owned vehicles, which resulted in the Town operating uninsured vehicles and paying insurance premiums for vehicles it no longer owned or operated.

The Town did not maintain an inventory of small DPW equipment (e.g., lawnmowers, snowblowers) and had an unwritten practice allowing employees to borrow this equipment for personal use.

The Town did not maintain a formal inventory of DPW parts and supplies leaving the inventory vulnerable to theft and misuse.

The Town did not track equipment provided to employees. In one instance, the Town purchased an Apple brand laptop for an employee (even though the laptop would not be compatible with the Town's other Microsoft-based computer equipment). The employee did not return the computer when he left Town service. The employee only returned the laptop after OIG inquiries. IT staff examined the laptop after the employee returned it and found that the primary user account was in the name of one of the employee's family members. Given these circumstances, it appears that the laptop was used for personal purposes and that the employee did not intend to return it after he stopped working for the Town.

OIG recommendation: The Town should maintain an accurate fleet list, and adequate insurance coverage. The Town should better track equipment as well as its parts and supply inventory. To eliminate a potential conflict-of-interest law violation, the Town should discontinue the practice of allowing employees to borrow Town equipment for personal purposes.

Town response: The Town indicated that past fleet list inconsistencies would not be repeated in the future, as the fleet list is now updated annually and cross-referenced with its insurer. Additionally, the DPW Director is planning to create an inventory control system for small equipment, and will investigate software programs that could track parts and supplies at the vehicle maintenance facility. The DPW Director has also informed staff that equipment cannot be borrowed for personal purposes without his express permission.

Follow-up items: The OIG reiterates its recommendation that the Town should eliminate personal use or "borrowing" of Town property. The Town's failure to do so perpetuates opportunities for conflict-of-interest violations and creates liability concerns for the Town. In addition, please provide the OIG with the following:

1. Notification when the small equipment inventory has been completed.
2. The Town's plan to track parts and supplies at the vehicle maintenance facility.
3. The written policy addressing the borrowing of Town-owned equipment.

Issue #3: Improper vehicle dispositions

The Town did not have written procedures for the disposition of surplus supplies valued at less than \$10,000 as required by M.G.L. c.30B – the uniform procurement act ("Chapter 30B"). The Town also transferred ownership of multiple surplus vehicles to Town employees, Town vendors and other related parties without a legally required Chapter 30B process and in possible violation of the conflict-of-interest law. The Town failed to support the vehicle transfers with proper backup documentation; therefore it is unclear if the Town received a fair price. In one instance, a Town employee purchased a Town vehicle for \$350, repaired it at the vehicle maintenance facility, and subsequently sold it on Craigslist for \$3,000.

OIG recommendation: The Town must implement a surplus disposition policy to comply with Chapter 30B. The Town should also use an open and competitive process for vehicle

dispositions, such as a public or online auction to ensure it receives a reasonable price and to avoid any conflict-of-interest law violations.

Town response: Surplus vehicles are now disposed of through an online auction process and the Town is reviewing policy examples for possible adoption.

Follow-up items: Please provide the OIG with the adopted written surplus disposition policy.

Issue #4: Ineffective procurement program

The Town's decentralized procurement process was ineffective at guaranteeing best value and ensuring compliance with state procurement laws. As Chief Procurement Officer, the Town Manager delegated procurement authority to department heads that were not trained in procurement laws. The proper delegation forms for these employees were not filed with the OIG. The department heads often failed to provide the Town Accountant with the proper paperwork to document procurements. Moreover, by using a decentralized process for many purchases, the Town relinquished its ability to aggregate smaller procurements across departments to potentially receive better pricing. Finally, the Town had no written procurement policies in place to ensure compliance with the various state procurement laws and best practices.

OIG recommendation: The Town should file the appropriate procurement delegation forms with the OIG, use a written procurement policy, properly train department heads and others with delegated procurement authority, and investigate creating a centralized procurement function.

Town response: The Town is reviewing examples of procurement policies for possible adoption. The Town also noted that the Assistant Town Manager, Town Accountant, Assistant Superintendent of Schools, and DPW Director have all attained and maintain their MCPPO procurement certifications.¹

Follow-up items: Please provide the OIG with the following:

1. The Town's adopted written procurement policy.
2. All statutorily-required Chapter 30B delegation forms for any Town employee who conducts Chapter 30B procurements.²
3. Plan for training staff members on procurement laws.

¹ Please note, our records show that Mr. Stone's MCPPO certification is expired. For questions regarding recertification please contact the OIG's MCPPO Director Joyce McEntee-Emmett at (617) 727-9140 ext. 48835.

² For instance, the OIG has no delegation form on file for the DPW Director, although he conducts procurements on behalf of the Town. For questions regarding delegation forms, please contact the OIG 30B Coordinator Mark Till at (617) 727-9140 ext. 48808.

Issue #5: Overtime pay to Assistant Highway Superintendent

From 2010 to 2013, the Assistant Superintendent regularly received significantly more overtime hours and substantially more overtime pay than any other highway department employee. The Assistant Superintendent often earned this overtime pay using vague justifications and inadequate backup documentation. Most of the Town's management employees are salaried, and the Town Code disqualifies salaried employees from earning overtime.

OIG recommendation: Town legal counsel should review the Assistant Superintendent's overtime earning eligibility and consider, given his job title and management responsibilities, what his proper title classification should be.

Town response: The Town stated that they have asked the Town's legal counsel to review the matter.

Follow-up items: The Town should create a policy relating to approval of overtime and a list of positions eligible for overtime pay. In addition, please provide the OIG with the results of any review of the Assistant Superintendent's overtime eligibility.

Conclusion

The OIG appreciates the Town's attention to these matters. By implementing the proposed corrective actions, the Town can decrease its vulnerability to fraud, waste and abuse. We look forward to the Town's responses and assisting the Town where needed to ensure the introduction of adequate oversight, controls and safeguards. Please respond by December 31, 2017, and do not hesitate to contact me if you have questions, concerns or require additional assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin S. Floster".

Kevin Floster
Lead Investigator



Town of Abington

500 GLINIEWICZ WAY
ABINGTON, MA 02351

RECEIVED

JAN 29 2018

OFFICE OF THE INSPECTOR GENERAL

January 24, 2018

Mr. Kevin Floster
Lead Investigator
Commonwealth of Massachusetts
Office of the Inspector General
McCormack Building
One Ashburton Place
Room 1311
Boston, MA 02108

Dear Mr. Floster:

I appreciate the opportunity for our management staff to follow up with you on the aftermath of the concerns of the Inspector General's Office from years past. There are six specific matters that you requested that I discuss with our management staff and follow up with you in writing:

1. Repair of Personal Vehicles by Town Mechanics

Historically the town has allowed the two town mechanics that we employ to work on their own personal vehicles on their personal time at the town maintenance facility due to the fact that they use their own tools that they purchase with their personal funds; and, it is onerous for these employees to transport these tools back and forth from home to work each day as a condition of employment. It is the goal of the town to replace the tools that are personally owned by these mechanics with tools purchased and owned by the town either by reimbursing these employees or by purchasing new tools from a vendor for use by these employees. The DPW Director is working towards securing estimates for doing so in conjunction with the FY 2019 budget process. In addition these mechanics belong to separate collective bargaining units and the town has a bargaining obligation with regard to this change in working conditions if/when a decision is made as to the cost/benefit of the town purchasing tools. I am pleased to report that the Town has appropriated \$10,000.00 in the FY2019 DPW line item budget in the effort of beginning the process of the Town purchasing its own tools, to phase out this practice completely as soon as practicable. We have had correspondence from our insurance carrier regarding this issue and in their opinion; there are a number of problematic issues presented:

- a. Injuries – negatively impacting our experience with regard to our workers compensation coverage
- b. Liability – We would need an exclusion on the Town’s general liability policy for property damage to property in the Town’s custody or control.
- c. Insurance premium increase – adding Garage keepers Liability coverage
- d. Accidents – example: a mechanic is welding a muffler pipe and there is a fire that causes damage to the Town’s building.

In Summary, our insurance carrier does not recommend that employees working on their own vehicles or others’ vehicles on Town property be done, not even on an exception basis.

2. Inventory Control

- a. Fleet List - Although going back several years there may have been some question as to the accuracy of the towns’ listing of vehicles. This list for all departments (public safety, school, public works, administrative, etc) is updated annually with each department and cross-referenced with our insurer very carefully both for liability as well as budgetary purposes. Obviously, as new vehicles are added and vehicles are re-appropriated between departments, our listings are updated internally, with our insurer, and, with the Registry of Motor Vehicles as necessary.
- b. Small Equipment – You will recall at the time of our discussion the DPW did not have formal listing of smaller equipment other than those that qualify to be listed as “contents” for property insurance purposes. We completely agree with the suggestion of your staff that that a spreadsheet program of small equipment including snow-blowers, tractors, weed-whackers, etc, is a “best practice” that should be implemented this year and DPW Director John Stone will be setting forth a timetable for doing so prior to the end of FY 2018 in conjunction with other priorities contained herein. In fact, our Network Administrator is currently undertaking a class to enable him to create an access data base to inventory small equipment. After some research, we have determined that this is more cost effective than acquiring the services of an outside vendor.
- c. Parts Inventory – Similar to “b” above the maintenance facility does not have a formal inventory program. Although it runs very smoothly in terms of meeting the needs of the departments, in order to help prevent theft and ensure confidence the department is investigating software programs for parts inventory also.

3. Policy Prohibiting Borrowing of Town Equipment unless authorized by DPW Director

Subsequent to (and as a result of) our discussion with your staff, the DPW Director believed that rather than a formal policy with variable conditions that it would be best to simply cease any borrowing of departmental equipment that may be occurring and has informed the department that no departmental equipment may be taken from the premises for personal use without the specific permission of the DPW Director.

4. Town Counsel Determination as to OT Eligibility of Jack Caine

This question has been posed to town counsel and also has collective bargaining implications.

5. Other – Policy Research and Implementation

In addition to the specific discussion items the management staff has collected and is reviewing examples of policies related Inventory Control, Procurement (beyond mere compliance with state law), and other Internal Controls for possible adoption.

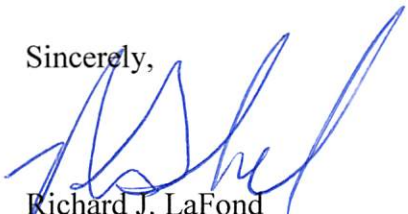
6. CPO Training

The Town of Abington takes the legal requirements of public procurement very seriously – ***as well as the public trust implications that necessitate these requirements.***

Accordingly in the past few years our Assistant Town Manager, Town Accountant, Assistant Superintendent of Schools and Department of Public Works Director have all attained (and maintain) their Massachusetts Certified Procurement Officer Training Certifications.

I believe that this responds to the points that we discussed in August but please let me know if there are other areas that you wish for me to address or expound upon in greater detail and I will be very pleased to follow up. Thank you for your helping Abington through this challenging period. We will be much better off for it.

Sincerely,



Richard J. LaFond
Town Manager



Town of Abington

OFFICE OF BOARD OF SELECTMEN

500 GLINIEWICZ WAY
ABINGTON, MA 02351
(781) 982-2100
FAX (781) 982-2138

February 23, 2018

Mr. Kevin Floster
Lead Investigator
Office of the Inspector General
One Ashburton Place
Room 1311
Boston, MA 02108

Dear Mr. Floster:

Please accept this letter as a response to your letter dated November 16, 2017, noting five issues to be addressed.

Issue #1: Repair to personal vehicles by DPW staff

Follow-up items:

1. The current existing collective bargaining agreements do not specifically address the issue. We have been advised by legal counsel that discontinuing the practice does constitute a change in working conditions that necessitates a bargaining obligation with two bargaining units.
2. A cost estimate for total replacement of employee-owned tools with Town-owned tools is approximately \$50,000.00. In the FY2019 budget we have increased the line item for purchasing of tools from \$2,500.00 to \$10,000.00 to address this need over the next few fiscal years.
3. The Town of Abington plans to discontinue the practice of repair of personal vehicles by DPW staff by July 1, 2018.

Issue #2: Lack of DPW inventory control

Follow-up items:

1. Notification will be forwarded when the small equipment inventory has been completed. This process has begun. Our IT Director will be finishing a three-phase class on March 7, 2018, allowing us the ability to work with a comprehensive data base cataloging all small inventory equipment.
2. The metal identification tags have been purchased. All small equipment will be tagged with a serial number, date of purchase, and cost of purchase. All this information will be recorded and maintained in the Town's newly created data base.

3. Per the January 24, 2018 letter, the DPW Director has previously directed that any borrowing of departmental equipment has already ceased unless specifically approved by the DPW Director.

Issue #3: Improper vehicle disposition

Follow-up items:

Attached is the Town's surplus vehicle policy, however this has been the Town's practice since 2013.

Issue #4: Ineffective procurement program

Follow-up items:

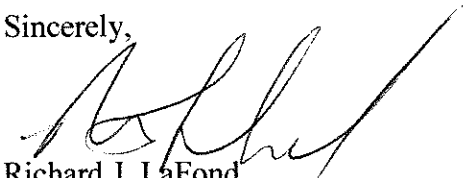
1. Attached is the Town's adopted written procurement policy that was developed in conjunction with our financial team which is comprised of the Town Manager, Assistant Manager, Town Accountant, Treasurer/Collector, Deputy Assessor, and both the Superintendent and Assistant Superintendent of Schools. Three of whom are certified procurement officers.
2. Attached is the statutorily-required Chapter 30B delegation form for the Assistant Superintendent of Schools.
3. The Assistant Town Manager, Town Accountant, and Assistant Superintendent of Schools have maintained their MCPPO procurement certifications. The most recent procurement laws as provided by KP Law, have been distributed to all staff.

Issue #5: Overtime pay to Assistant Highway Superintendent

Follow-up items: The DPW Director along with the Town has been working to update all position descriptions including non-exempt overtime status within the DPW. We have been consulting with Town Counsel and expect to have a written opinion and direction with regard to the status of Mr. Caine's overtime eligibility next week. We will forward that to you upon receipt.

Thank you for working with the Town of Abington, and please do not hesitate to contact our office should you wish to discuss these issues further.

Sincerely,



Richard J. LaFond
Town Manager

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