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Office of the  
Inspector General  
Commonwealth of Massachusetts

**Gregory W. Sullivan**  
Inspector General

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American Recovery and  
Reinvestment Act Oversight

October 1, 2009 – September 30,  
2011

November 2011

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**American Recovery and Reinvestment Act Oversight**  
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On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA) in direct response to the nation's economic crisis. ARRA had the immediate goals of creating new jobs and saving existing ones; spurring economic activity and investing in long-term growth; and fostering unprecedented levels of accountability and transparency in government spending. To accomplish these goals, ARRA increased federal funding for education, health care, entitlement programs, federal contracts, grants and loans and provided tax cuts to families and businesses – requiring that recipients of ARRA funds report quarterly on their use of the money. According to the Massachusetts Recovery and Reinvestment Office, through June 2011 Massachusetts spent \$6.6 billion of the \$7.4 billion awarded under ARRA. Additionally, ARRA provides for a small amount of funding for central administrative costs, a portion of which Massachusetts decided to use for ARRA oversight functions, including those of the OIG. The OIG received oversight funding between October 2009 and June 2011. Although the OIG no longer receives ARRA funding, the OIG is continuing to review ARRA spending on a limited scale.<sup>1</sup>

Beginning in October 2009, the OIG assembled a team of analysts, lawyers and investigators to initiate a variety of cases aimed at detecting and preventing fraud, waste and abuse in ARRA-funded projects. The OIG team has reviewed matters associated with more than \$1.2 billion in ARRA and associated federal, state and local funding that had been awarded to nearly 370 grantees and recipients, including school districts, municipalities, police departments, and state, not-for-profit, and regional agencies. As of June 30, 2011, the OIG has issued 67 ARRA-related letters and advisories concerning grant program performance, agency and grantee practices, and anti-fraud measures and internal controls. The OIG has reviewed numerous complaints, conducted free anti-fraud trainings across the Commonwealth, provided anti-fraud “hotline” posters to hundreds of organizations, and has offered free training and technical assistance to more than 100 professional organizations and government and not-for-profit officials. The OIG has also participated in the STOP Fraud Task Force, Lt. Governor Murray's Anti-Fraud, Waste, and Abuse Task Force and, has worked closely with other federal, state, and local oversight organizations.

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<sup>1</sup> Governor Patrick has filed a FY2012 budget supplement to fund continuing ARRA oversight. At this time, there is no information available concerning the status of this supplement.

The OIG reviewed ARRA-related grants to identify potential vulnerabilities to fraud, waste, and abuse and other risks that could negatively impact the accountability, transparency, and anti-fraud mandates contained in the statutory language and interpretive guidance of ARRA. Due to the sheer volume of ARRA funded grants, the OIG employed a strategy to review at least a portion of as many grants possible. As a result, in most cases the OIG reviews should not to be construed as formal audits, investigations, or comprehensive programmatic reviews. Rather, these should be reviewed as compliance checks, risk assessments, and deterrence monitoring aimed at assisting grantees and recipients of ARRA funding to identify and address risks early in the process and modify behavior.

## **OIG ARRA Cases**

### **Pre-October 2009 Work ("Ramp-Up")**

#### **ARRA Construction Law Amendments**

In November 2008, the Governor formed a construction procurement efficiency task force in which the OIG participated to examine current statutes and regulations in preparation for the federal economic stimulus bill. The task force recommendations led to An Act Mobilizing Economic Recovery in the Commonwealth, Chapter 30 of the Acts of 2009 ("Chapter 30"). This new law provided for expedited procurement procedures for ARRA funded construction projects.

#### **Letter to Administration and Finance Secretary Kirwan Concerning ARRA Reporting**

In September 2009, the OIG offered recommendations to Secretary Kirwan about the type of information that ARRA recipients should provide to the state, including sworn statements about the proper use of ARRA funding and non-collusion statements.

#### **Grant Intervention**

Upon identifying that a private corporation in receipt of ARRA funds claimed exemption from and lack of awareness of ARRA reporting requirements, the OIG requested that the grantor agency, the U.S. Department of Agriculture, inform the corporation of grantee responsibilities.

#### **Guide to Developing and Implementing Fraud Prevention Programs**

In October 2009 the OIG issued an updated guide to help ARRA grantees develop fraud prevention and detection policies and programs. The OIG considered anti-fraud activity to be an integral part of the ARRA mandate.

#### **Timekeeping Best Practices for Employers with Employees with Multiple Positions**

In November 2009, the OIG issued an advisory regarding timekeeping best practices for employees with multiple positions which recommended preventive measures against time fraud, including enhanced time reporting procedures and policies and procedures that address multi-jurisdictional and multi-departmental

situations. ARRA funding and other grant funding may create multiple roles for employees.

### **Letter to the Chairman of the Recovery Accountability and Transparency (RAT) Board**

In November 2009, this Office informed the (RAT) Board of a complaint that alleged that a federal agency was not enforcing the “Buy American” provision contained in the ARRA legislation. The complaint alleged that the federal agency was allowing the purchase of materials manufactured in Canada when equivalent materials are also manufactured in the United States. In 2010 the federal government approved the use of Canadian goods under ARRA.

### **Post-October 2009 Work**

### **Advisory Regarding the Inadequacy of the Executive Office of Education (EOE) Monitoring Plan**

In January 2010, the OIG wrote to EOE Secretary Paul Reville warning that EOE’s plan to use the single audit to monitor the ARRA-funded State Fiscal Stabilization Fund (SFSF) grants was inadequate and recommended EOE bolster its oversight to avoid possibly jeopardizing future grants. In response, EOE tasked the Department of Elementary and Secondary Education (DESE) with reviewing Fiscal Year (FY) 2010 SFSF expenditures as part of its audit function. The OIG has coordinated school district reviews with DESE, and agreed to review, on a sample basis, FY 2009 ARRA expenditures by local school districts. DESE hired certified accounting firms to assist with review efforts, augmenting single-audit efforts as suggested by the OIG.

### **Letter to State Purchasing Agent Regarding the OIG Review of MassDOT’s procurement of a van contract subsequently used by the Massachusetts Bay Transportation Authority (MBTA) for The Ride**

In April of 2010 the OIG wrote to State Purchasing Agent Ellen Bickelman alerting her to aspects of The Ride van procurement that did not conform to OSD guidelines. The OIG requested that OSD review the purchase. OSD subsequently reviewed this procurement and concurred with the OIG’s findings.

### **Procurement of MBTA Paratransit The RIDE Vans with ARRA Funds**

In 2009 the MBTA purchased 108 paratransit vehicles for THE RIDE program at a cost of \$5.5 million using ARRA funds. The MBTA used a pre-existing MassDOT contract. An OIG review of the MassDOT contract found flawed procurement practices, including unclear specifications, a weak and arbitrary proposal evaluation process and poor documentation, which undercut fair and open bidding and limited competition possibly exposing taxpayers to more than \$700,000 in wasteful and unnecessary spending over the life of the contract. The OIG issued its findings and recommendations in a July 2010 letter to MassDOT Secretary Jeffrey Mullan and MBTA General Manager, Richard Davey. In response, MassDOT agreed to rebid its five-year contract for the procurement of paratransit vehicles “as soon as practicable.” In early 2011, in response to the OIG review, MassDOT issued a guide entitled “How to Conduct a MassDOT Procurement” that addressed many of the concerns raised and issues identified by the OIG. The OIG is now working cooperatively with MassDOT and

the MBTA to review other THE RIDE expenditures for Lt. Governor Timothy Murray's Anti-Fraud, Waste, and Abuse Task Force.

### **Advice on Sub-Grantee Monitoring to the Department of Energy Resources (DOER)**

In August of 2010 as a result of a collaborative effort with DOER, the OIG provided recommendations to the Green Communities Division of DOER on how to increase its capacity for monitoring 94 sub-grantees of ARRA-funded Energy Efficiency and Conservation Block (EECBG) sub-grants. The OIG recommended DOER define the scope of its monitoring role, assess risks, identify vulnerabilities and develop a monitoring plan based on its internal risk assessment and identified "best practices." In response, DOER implemented a plan focusing on high risk projects and recipients, geographic diversity and efficient use of the agency's limited monitoring resources.

### **Review of Healthy Homes Grants**

The OIG reviewed two \$875,000 Healthy Homes Grants awarded to Self Help Inc. and the University of Massachusetts (UMass) Lowell Institute for Housing Sustainability. The grants, issued by the U.S. Department of Housing and Urban Development (HUD) were intended to remediate health and safety hazards in housing for income-eligible recipients. The OIG recommended opportunities for both grantees to increase controls including obtaining outside audits, taking advantage of volume purchasing, using written contracts with all vendors, providing staff training on fraud and abuse and instituting requirements that employees account and record time worked by funding source.

The OIG also reviewed and suggested improvements to Self Help's anti-fraud policy that Self Help developed as a result of the OIG Healthy Homes review.

### **Review of ARRA Grants to Local Police Departments**

The OIG identified widespread violations of M.G.L. Chapter 30B - the Uniform Procurement Act, by local police departments that received Edward Byrne Memorial Justice Assistance Grants (Byrne Grants) from the U.S. Department of Justice (DOJ). An OIG review of a sample of 22 police departments revealed absences of delegated purchasing authority, improper use of collective purchasing agreements, a lack of documentation to justify sole source procurements, and noncompliance with the reporting requirement of Section 1512 of the ARRA Act. The OIG issued letters to fifteen municipalities and in early 2011 issued a procurement practice advisory for Byrne grants to the Massachusetts Chiefs of Police Association for dissemination to its membership.

### **Reports on Federal Obstacles to OIG Oversight**

In February and again in March 2010, the OIG wrote to the Recovery Accountability and Transparency Board (RAT Board) detailing obstacles to its review of Byrne Grants issued by DOJ. These letters alerted the RAT Board to the following problems: DOJ's failure to respond to multiple requests for information regarding grants awarded to municipalities and no specification by DOJ as to what procurement policies grantees should follow.

### **Review of SFSF Spending by Public School Districts**

The OIG reviewed \$106,817,907 in FY 2009 SFSF grant funds awarded to public school districts. The review found several “red flags” or possible fraud that the OIG investigated. The OIG reviewed spending in more than 20 districts and sent letters to ten school districts with findings relating to ARRA compliance and fraud prevention recommendations.

In February 2011, the OIG met with EOE Secretary Reville to discuss working cooperatively with EOE on several financial aspects of special education expenditures, including spiraling transportation costs and declining claims for Medicaid reimbursement by school districts for special education-related health services. This work is based on issues identified by the OIG during its SFSF review effort.

### **Follow-up to ARRA “Readiness Assessment”**

The OIG reviewed responses of six state agencies to a “Readiness Assessment” by the state’s single audit agency, KPMG, of the agencies’ preparedness to receive ARRA funding. The agencies were the Department of Energy Resources (DOER), the Department of Elementary and Secondary Education (DESE), the Department of Environmental Protection (DEP), Department of Housing and Community Development (DHCD), the Executive Office of Public Safety and Security (EOPSS) and MassDOT. The OIG asked the six agencies how they responded to the KPMG recommendations. The OIG reviewed the agencies’ responses and provided recommendations on establishment, maintenance, and communication of a comprehensive anti-fraud program including an ongoing agency-wide anti-fraud strategy. The OIG also issued agency-specific recommendations to address weaknesses in each agency’s anti-fraud programs.

### **Review of Leaking Underground Storage Tank Grant**

In February 2011 the OIG conducted a partial review of the U.S. Department of Environmental Protection’s (DEP) \$3,118,000 Leaking Underground Storage Tank (LUST) grant that DEP received from the U.S. Environmental Protection Agency (EPA). The OIG determined that DEP’s framework for direct management of the grant limited fraud risk. However, the OIG identified one potential risk involving DEP’s use of a prequalified contractor list for the grant funded construction work. The OIG confirmed that DEP had developed a process to periodically verify the status of prequalified contractors. To further address risk, the OIG recommended that a review of qualifications be extended to subcontractors hired by prequalified general contractors for specific LUST projects.

### **Review of Merrimack Valley Regional Transit Authority**

In June 2010 the Massachusetts Attorney General charged the general manager for the Merrimack Valley Regional Transit Authority (MVRTA) prime vendor/operator with stealing fares from the authority’s fare boxes. This incident prompted the OIG to conduct a review of MVRTA’s receipt of over \$7.9 million in ARRA funds for construction of the new Amesbury Transportation Center and the new MVRTA office and maintenance facility in Haverhill. The OIG issued a letter in February 2011 with

some of the following recommendations: MVRTA should revise its Purchasing Manual to include a fraud awareness and prevention policy and a code of conduct; complete a risk assessment to identify vulnerabilities that may have allowed for the aforementioned theft and identify means to prevent future theft; consider more frequent and targeted external audits; and amend its management (operator) services contract to require internal control procedures as well as annual approval by MVRTA of these controls.

### **Review of Energy Efficiency and Conservation Block Grant Program**

The U.S. Department of Energy's (USDOE) and the DOER issued Energy Efficiency and Conservation Block Grant (EECBG) funds under ARRA. Massachusetts received over \$42 million in EECBG funds, the bulk of which the USDOE granted directly to municipalities or to the Massachusetts Department of Energy Resources (DOER), which in turn sub-granted these funds to municipalities. The OIG reviewed a sample of municipalities and identified the following: for the development of solar panel system projects, recipients relied excessively on vendors to provide technical assistance and written specifications; several recipients of EECBG funds used the exemption in M.G.L. c. 25A §14 to evade the public building construction law, including one municipality that entered into 12 separate contracts with the same contractor for different projects totaling over \$300,000; some recipients failed to include EECBG-specific and ARRA-specific requirements in their contracts; some EECBG recipients procured new boilers or converted heating systems using on-call service contracts which violates M.G.L. c. 149. The OIG issued nine letters providing guidance and recommendations to these grantees and issued a letter to DOER summarizing the OIG's findings and recommendations for DOER to increase its capacity for the administration and oversight of EECBG funds.

### **Review of DHS Port Security Grant**

In April 2011, the OIG reviewed the U.S. Department of Homeland Security's (DHS) Port Security Grant (PSG) awarded to the Massachusetts Executive Office of Energy and Environmental Affairs (EOEEA) for the purchase of a police boat for the Massachusetts Environmental Police (\$481,845); and to partially fund the upgrade of the dockage capabilities at the New Bedford State Pier (\$203,030). The OIG reviewed EOEEA's procurement methods, contract oversight practices, and grant monitoring process, confirmed that the dock renovations had been made and that the boat is in EOEEA's possession.

### **Review of Richard B. Russell Equipment Assistance Grant**

Under ARRA, the Massachusetts Department of Elementary and Secondary Education (DESE) awarded the U.S. Department of Agriculture's (USDA) \$ 1,404,025 in Richard B. Russell National School Lunch Program Equipment Assistance Grants to school districts and schools for the purchase of food service equipment. The OIG reviewed the procurement processes and conducted site reviews for a sample of 11 public school districts (35 school buildings) and one private, not-for-profit school. The OIG found the following: two violations of Chapter 30B with the appearance of bid splitting; failure to use a competitive process for electrical work violating M.G.L. c.149; redistribution of grant funds without USDA or DESE approval; missed expenditure deadlines; poor record keeping; and a wide range of prices paid by recipients across the

Commonwealth for the same equipment purchased. The OIG also issued a letter to DESE recommending, amongst other things, that DESE work with OSD to identify when group purchasing opportunities may provide the best value for applicants and act to expedite the use of grant funds.

### **Review of Lead Hazard Control (LHC) program**

The OIG conducted a review of the U.S. Department of Housing and Urban Development's (HUD) Lead Hazard Control (LHC) program. Massachusetts received \$8,624,565 in total LHC grants awarded to 13 grantees and sub-grantees. The OIG found the following: applicant intake process at high risk for fraud; confusion regarding whether to use M.G.L. c.149 or M.G.L. c.30B, and a failure to use sound business practices; grantees maintained pre-qualified lead inspector and de-leading contractor lists for long periods without re-procurement and/or requalification; some grantees allowed tenant or unit owners to choose a contractor from a prequalified list other than the low bidder to perform de-leading work; grantees selected units for de-leading on a first-come, first-served basis at the cost of assisting higher priority lead abatements; grantees consistently failed to file affordability agreements with the Registry of Deeds; and some grantees relied on ill-defined agreements or oral contracts rather than formal written contracts to define business relationships with sub-grantees, contractors, and other parties. The OIG also issued a risk assessment advisory to grantees and sub-grantees of the program as well as individualized letters to five sub-grantees.

### **Review of WIC Grant**

In the spring of 2011, the OIG conducted a partial review of the Department of Public Health's (DPH) receipt of the \$900,000 ARRA funded "WIC Miscellaneous Technology" grant (WIC Grant) from the United States Department of Agriculture (USDA). DPH used the WIC Grant to modify *Eos*, its new web-based information system for the Women, Infant, and Children Nutrition Program (WIC) to meet accessibility requirements for use by persons with vision and/or mobility disabilities as mandated by the Massachusetts' Information Technology Division (ITD). The OIG verified that the appropriate accessibility upgrades had been completed and that DPH received approval from the USDA to use leftover ARRA funds for a testing compliance program and data and reporting warehouse for the *Eos* system.

### **Complaint Regarding Barnstable Airport Expansion**

In September 2010 the OIG reviewed a complaint alleging the Town of Barnstable unlawfully issued building permits for portions of the airport expansion project, which included \$3.6 million in ARRA funds to erect an air traffic control tower. The OIG reviewed information provided by the airport and the Cape Cod Commission. The issue is currently in litigation and the OIG has deferred its review until the court completes its review of the matter.

### **Review of Assistance to Firefighters Fire Station Construction Grant**

The OIG reviewed a \$1,888,775 ARRA Assistance to Firefighter Fire Station Construction Grant awarded to Chelsea, the only award of its kind in the state in 2009. The OIG reviewed the grant application and project solicitation documents and determined that the grant application did not include specific expenditures or

explanations of how problems in the existing station would be addressed, making it difficult to accurately predict costs.

### **Review of Airport Improvement Program**

The OIG reviewed the application, award letter and procurement file for an airport in Westfield awarded an ARRA-funded Airport Improvement Program grant. The OIG questioned different project cost estimates used during the procurement process which officials attributed to design development and timing issues.

### **Coordination with U.S. DOT Inspector General on the ARRA-funded Small Shipyard Grant**

The OIG and the DOT OIG coordinated oversight of two Massachusetts shipyards receiving a combined \$2,043,438 in Small Shipyard ARRA grants. The DOT OIG initiated the review and will contact our office as assistance is required.

### **Debarment Reviews**

The OIG sampled construction companies receiving ARRA funds, as identified in the ARRA required 1512 reporting, and compared them to the state and federal debarment lists to ensure that they had not been red-flagged or debarred from public projects by the Commonwealth. At the time of the review, the OIG did not identify any debarred contractors engaged in state highway projects

### **ARRA Transportation Grants**

The OIG reviewed more than 50 change orders for ARRA-funded MassDOT contracts to ensure the change orders did not appear excessive or outside the scope of the project being undertaken.

## **Other Oversight Activity**

### **ARRA Grant Monitoring**

Based on section 1512 reporting, the OIG has been monitoring the progress of grants to identify potential targets for review for reporting issues and other oversight opportunities. Certain OIG staff received training from MARRO on 1512 reporting. On a monthly basis the OIG monitors the work products of the various federal Offices of the Inspector General.

### **ARRA Procurement Bulletins**

The OIG publishes a Procurement Bulletin quarterly for local officials around the state. Beginning with the last bulletin of 2009, the OIG has devoted a page exclusively to ARRA-related issues. Since March 2009, the Bulletin has included such ARRA specific information and guidance as recordkeeping and reporting requirements, grant monitoring strategies, answering ARRA-specific procurement questions, and information regarding fraud hotlines, prevailing wages, "green" energy contracts, Chapter 30B and ARRA audit services.

### **Trainings and Outreach**

The OIG continues to provide anti-fraud and procurement training to recipients and professional groups, and issue ARRA-related guidance and assist state and local agencies to increase their grant oversight and fraud prevention capacity. The ARRA

team has conducted training and/or consulted on anti-fraud measures and sound procurement practices for audiences including, a joint meeting of state university and community college chief financial officers and comptrollers, a regional conference of the American Society for Public Administration, Cape Cod Purchasing Officials, public works officials from Norfolk, Bristol and Middlesex Counties, the Massachusetts Association of Public Purchasing Officials, the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials, the Department of Housing and Community Development, the Office of the State Comptroller, the Massachusetts Municipal Auditors and Accountants Association, the Department of Elementary and Secondary Education, the Massachusetts Association of School Business Officials, state agency grant administrators, the Executive Office of Public Safety and Security, the Massachusetts Recovery and Reinvestment Office, and an ARRA-specific presentation in the OIG's Massachusetts Certified Public Purchasing Official program.

The OIG increased awareness of its fraud prevention role by sending informational letters and "Stop Fraud Waste and Abuse" hotline posters to public agencies and grantees.

The OIG also offered free anti-fraud training and technical assistance to over 200 municipalities, trade associations, professional organizations, non-profits and other entities that were either ARRA recipients or otherwise impacted by ARRA funds.

#### **STOP Fraud Task Force & Lieutenant Governor's Task Force**

Staff from the OIG meets regularly with the STOP Fraud Task Force, which coordinates ARRA oversight activity between state and federal oversight agencies and is developing an anti-fraud policy as a potential template for public agencies across the state. Staff also meets with Lt. Governor Murray's Anti-Fraud, Waste, and Abuse Task Force to coordinate oversight and anti-fraud activity within state government, including developing statewide policies and facilitating inter-agency initiatives.

#### **Review of Homeless Prevention and Rapid Re-Housing Program Grants**

ARRA provided over \$44.5 million to Massachusetts to fund Homeless Prevention and Rapid Re-Housing Program (HPRP) grants, distributed by the U.S. Department of Housing and Urban Development (HUD). Grantees—either the Massachusetts Department of Housing and Community Development (DHCD) or individual municipalities—use the money to support the homeless or those in "imminent risk" of homelessness with temporary financial support and housing. The OIG reviewed nearly 75% of the funding received by Massachusetts grant recipients and questioned the use of nearly 4% of these funds. Among other things, the OIG found that the program needed a more uniform set of guidelines to regulate the grants, such as how much sub-grantees are allowed to charge for indirect costs (the program lost \$203,983 to overhead due to excessive rates). The OIG also identified multiple instances where sub-grantees did not follow HUD guidelines possibly due to a lack of grantee oversight or enforcement; for example, the program spent \$145,207 on potentially ineligible applicants. Finally, the OIG recommended the implementation of a program guideline requiring grantees to negotiate the rent arrearages owed by HPRP clients. The OIG estimated that, by paying the asking price, grantees may have spent almost \$1.2 million

more than they should have. As a result of these findings, the OIG issued an advisory to all HPRP grant recipients to guide them on maximizing efficiency, reporting fraud, and preventing misuse of funds in general. Specific violators were informed of steps they should take to redress the improprieties.

### **Wrap-Up of Review of State Fiscal Stabilization Funding (SFSF) Spending**

The OIG reviewed portions of the more than \$106,817,907 in FY2009 SFSF grant funds awarded to 20 public school districts. The OIG sent two letters to the New Bedford Public Schools regarding its use of some of the \$11.6 million in FY2009 SFSF funding it received. The first letter sent in June 2011 reviewed the purchase of 497 personal computers (PCs) had been purchased and placed in use. Poor recordkeeping and lack of an asset management system meant that it took weeks for OIG and district staff to identify where the PCs had been placed into service. Initially, it appeared that a majority of the PCs could not be accounted for. However, all PCs had eventually been identified. As a result of this exercise and an OIG recommendation, the district is instituting an asset management system for PCs as well as for other electronic devices such as laptops, cellular telephones, etc. The OIG sent a second letter in September 2011 based on a review of a \$2.2 million district expenditure for an in-district special-education provider. The OIG identified a lack of a written contract, the lack of adequate vendor licensure, a lack of adequate accountability and documentation of vendor activity, and a potential conflict of interest in the different services provided by the vendor. The district agreed to review the matter and implement a number of the OIG recommendations.

### **Review of SBA Microloan Program**

ARRA allocated \$4 million to the U.S. Small Business Association (SBA) to provide short-term loans (of no more than \$50,000 each) to struggling Massachusetts small businesses. In reviewing the disbursement of this money, the OIG found: a significant risk that sub-lenders will not be able to disburse all the funds by the deadline; sub-lenders are not held to any set of underwriting and documentation standards; the SBA does not review loans granted by sub-lenders; the SBA does not dictate eligibility to be a lending officer; and one microloan was illegally used to pay down a debt. Overall, the OIG found a high risk for waste, fraud, abuse, and conflict of interest because lenders, borrowers, and compromising outside influences so often inhabit the same small world. The OIG sent a letter to the SBA to alert it of these shortfalls.

### **Review of OpenCape Corporation's Broadband Grant**

The U.S. Department of Commerce's Broadband Technology Opportunities Program (BTOP) granted \$32,072,093 in ARRA funds to OpenCape Corporation for construction of a comprehensive new broadband infrastructure for Cape Cod and the Islands. The OIG concluded that, although OpenCape is generally following best practices, maintaining transparency and following local regulations when it is only legally obligated to obey federal ones, there exists vulnerability to fraud, waste, and abuse. The OIG, concerned about OpenCape's lack of preparation for handling its potentially multi-million-dollar profits for the next 40 years, did recommend that OpenCape institutionalize anti-fraud and abuse safeguards to protect future revenue and to protect against potential conflict of interest issues that could arise from the

involvement of public officials in OpenCape governance and oversight of the broadband project. Specifically, the OIG worries that a small group of OpenCape employees will soon have alarmingly wide discretion over significant financial resources without the level of oversight and controls that normally exist for public funding. For example OpenCape could award significant compensation packages to its management and conduct so-called "related party transactions" with those having governance responsibility. The OIG also questioned OpenCape's reservation of 40% of broadband fibers for its own use without any clear guidelines for maintaining an appropriate level of accountability and transparency in the use of these fibers. The OIG also noted OpenCape's lack of record-keeping in the vendor application process; the small size of the service discounts being provided to public entities; the cost-effectiveness of accepting a building as a donation from Barnstable County; and the possibility of OpenCape's revenue share with the vendor being diminished without adequate input. Overall, the OIG's letter to OpenCape served as a reminder that any profit from this publicly funded project should be used to continue to serve public interests.

### **The Future of ARRA Oversight**

In January 2011, the OIG received a funding extension to continue its ARRA oversight work through June 30, 2011. The OIG strongly recommended that the Massachusetts Recovery and Reinvestment Office continue ARRA oversight funding through 2012 and possibly beyond, since unfortunately, a great deal of fraud, waste and abuse goes undetected until after money is spent and contracts have ended. Moreover, due to unforeseen project and other delays on the part of grant recipients, ARRA funds are being spent over a longer period of time than originally foreseen, increasing the need to extend oversight for a longer time period. Governor Patrick filed a FY2012 budget supplement to increase oversight funding. As of September 30, 2011, the legislature had not approved this supplement. Although effective July 1, 2011, the OIG no longer receives any ARRA funding or specific oversight funding for ARRA expenditures, the OIG is continuing to review ARRA spending on a limited scale, transitioning from a model of fraud prevention to one of detection.

## Appendix (Case Sample)

Grant Program	Agencies or Entities Reviewed	Issue	Dollar Amount Reviewed
<b>Federal Transit Authority (FTA) Grant</b>	MassDOT	Flawed procurement practices, including unclear specifications, weak and arbitrary proposal evaluation process and poor documentation	\$26.6 million
<b>Healthy Homes Grants</b>	Self Help Inc., University of Massachusetts (UMass) Lowell Institute for Housing Sustainability	Weak internal controls and anti-fraud measures	\$1.75 million
<b>Edward Byrne Memorial Justice Assistance Grants</b>	Local police departments	Widespread violations of M.G.L. c. 30B	\$260,910
<b>State Fiscal Stabilization Fund (SFSF) grants</b>	Public school districts	Single audit-only plans; several red flags of possible fraud	\$106.8 million
<b>Leaking Underground Storage Tank grant</b>	Department of Environmental Protection (DEP)	Risks regarding prequalified contractor list for construction	\$3.1 million
<b>ARRA funds</b>	Merrimack Valley Regional Transit Authority (MVRTA)	Theft of fares; weak internal controls and fraud prevention policy	\$7.9 million
<b>Energy Efficiency and Conservation Block Grants (EECBG)</b>	Department of Energy Resources (DOER); municipalities	Unlawful use of exemption under M.G.L. c. 25A, violations of M.G.L. c. 149	\$4.1 million
<b>Port Security Grant</b>	Executive Office of Energy and Environmental Affairs (EOEEA)	Confirmation of boat purchase and dock renovations	\$278,815
<b>Russell Equipment Assistance Grants</b>	Department of Elementary and Secondary Education (DESE); school districts & schools	Violations of Chapter 30B and M.G.L. c. 149; redistribution of grant funds w/out approval; inconsistent costs of equipment	\$562,169
<b>Lead Hazard Control (LHC) Program Grants</b>	Self Help Inc., UMass Dartmouth, Malden Redevelopment Authority (MRA), City of Lowell, Pittsfield	Inadequate intake process; improper use of pre-qualified vendor lists; unfamiliarity with M.G.L. c. 30B and M.G.L. c 149	\$7.5 million

Grant Program	Agencies or Entities Reviewed	Issue	Dollar Reviewed	Amount
<b>WIC Miscellaneous Technology Grant</b>	Department of Public Health (DPH)	Verification that project met accessibility requirements	\$909,000	
<b>ARRA funds</b>	Town of Barnstable	Unlawful issuance of building permits for portions of the airport expansion project	\$3.6 million	
<b>ARRA Assistance to Firefighter Fire Station Construction Grant</b>	Town of Chelsea	Poor cost documentation in grant application	\$1.9 million	
<b>Small Shipyard ARRA grants</b>	Two Massachusetts shipyards	Oversight	\$2 million	
<b>Small Shipyard ARRA grants</b>	Two Massachusetts shipyards	Oversight	\$2 million	
<b>Small Business Administration: Microloan Program</b>	Six intermediaries	Oversight	\$4 million	
<b>Broadband Technology Opportunities Program</b>	OpenCape Corporation	Oversight and anti-fraud, waste and abuse measures	\$32 million	
<b>Homeless Prevention and Rapid Rehousing Grant</b>	20 grantees (direct recipients of federal funds)	Lack of uniformity, possible cost misclassification, weak oversight, benefits granted to possible ineligible applicants	\$44.5 million	