



OFFICE OF THE INSPECTOR GENERAL
COMMONWEALTH OF MASSACHUSETTS

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**Internal Special Audit Unit:
2020 Annual Report**

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EXECUTIVE SUMMARY

The legislature created the Internal Special Audit Unit (ISAU) in June 2009 as part of a major reorganization of the Commonwealth's transportation systems, commonly known as the 2009 Transportation Reform Act. The ISAU, established by Section 9(e) of Chapter 6C of the Massachusetts General Laws, operates as a part of the Massachusetts Office of the Inspector General (Office), an independent state agency with a broad legislative mandate to prevent and detect fraud, waste and abuse of public funds at all levels of government.¹ The ISAU is tasked with monitoring the quality, efficiency and integrity of the Massachusetts Department of Transportation (MassDOT), the consolidated transportation agency created by the Transportation Reform Act.

The ISAU performs audits, investigations and reviews to prevent, detect and correct fraud, waste and abuse in the expenditure of public and private transportation funds. The ISAU assists the Commonwealth, the public, MassDOT and the Massachusetts Bay Transportation Authority (MBTA), as well as local cities and towns, by identifying potential cost savings, waste and misuse of transportation funds. In addition, Section 196 of Chapter 46 of the Acts of 2015 requires the ISAU to evaluate the MBTA's efforts to save taxpayer funds by privatizing some of its services.

In 2020, the ISAU conducted the following investigations, reviews and audits:

Merit Rating Board. The ISAU continued its in-depth review of the Merit Rating Board (MRB), the division of the Registry of Motor Vehicles (RMV) that maintains and updates driving records. The ISAU initiated its review in 2019 in the wake of a fatal traffic accident that revealed the RMV had not been updating driving records in a timely manner.

In 2020, the ISAU found that the MRB would benefit from job-specific training for the RMV's new electronic records system. Specifically, when the RMV transitioned from its 30-year-old electronic records system to a new system (ATLAS) in 2018, MRB employees received the same customer-service-oriented training as all other RMV employees. This training did not include the steps for processing motor vehicle citations or infractions, both of which are crucial for updating driving records.

The ISAU also found that during the transition to ATLAS, MRB's former management eliminated employee goals that measured productivity and accuracy in order to reduce pressure while the staff learned the new records system. Instead, the lack of goals led to a decrease in productivity, accuracy and staff morale.

The ISAU recommended that the MRB prioritize ATLAS training for its staff, including providing necessary retraining for current staff and creating an ATLAS training program for new hires. The ISAU also

¹ Section 9(e) of Chapter 6C of the General Laws was passed through the enactment of Section 9(a) of Chapter 25 of the Acts of 2009.

recommended that the MRB reinstitute performance metrics. The MRB is in the process of implementing these recommendations.

Disadvantaged Business Enterprise. Following a hotline tip, the ISAU reviewed whether a MassDOT-certified disadvantaged business enterprise (DBE) qualified for the DBE program. The ISAU found that the company's success as a construction subcontractor and supplier had allowed its owner to "accumulate substantial wealth."² Consequently, the company was no longer qualified to participate in the DBE program. The ISAU based its conclusion on an in-depth analysis of the business owner's overall financial condition, including her ownership of other businesses, vast real estate portfolio, access to credit, and lavish spending on both personal and business accounts.

Park and Ride Lots. The ISAU conducted a high-level review to evaluate revenue-generating agreements on MassDOT-owned property, including Park and Ride lots. The ISAU found that MassDOT generally does not have long-term, written lease agreements with private bus and retail vendors that require the companies to pay MassDOT for using the publicly owned parking lots. In addition, the private companies did not share the cost of snow removal or other lot maintenance. The ISAU also found that private companies had scaled back their use of MassDOT's parking lots in response to the COVID-19 pandemic.

MassDOT has already begun researching possible revenue from private bus and retail vendors. The ISAU recommended that MassDOT take preliminary steps now so that it is ready to enter into appropriate revenue-generating and/or cost-sharing agreements when the lots enter post-pandemic operations. The ISAU plans to revisit this review after commuting returns to pre-pandemic levels.

MBTA Privatization. The ISAU followed up on its 2019 review of the MBTA's warehousing privatization. In its [2019 review](#), the ISAU identified opportunities for the MBTA to improve its oversight of the vendor, and also recommended that the MBTA hold the vendor accountable for failing to inventory all existing parts or provide a viable inventory system as required by the contract.

In 2020, the ISAU found that the MBTA is continuing to improve its oversight of the vendor. However, the MBTA has not held the vendor accountable for failing to conduct the inventory or provide a viable inventory system.

Commuter Rail Fare Collection. In response to a complaint about commuter rail conductors allowing court officers to ride for free, the ISAU determined that MBTA rules allowing on-duty police officers and fire department personnel to ride free-of-charge should be updated to explicitly exclude court officers from that privilege. In September 2020, the MBTA adopted this recommendation.

Municipal Projects. The ISAU reviewed the town of Eastham's oversight of a roadway improvement project funded by the state's Chapter 90 program and found that weak contract administration led Eastham to overpay the contractor \$13,672. Eastham, which recouped the funds during

² 49 C.F.R. § 26.67(b)(1)(ii)(A).

the [ISAU's review](#), is in the process of improving its practices. The ISAU recommended that the town enhance its contract administration and vendor oversight policies. Additionally, the ISAU recommended that all town employees involved in procurement, project oversight or payment processes take the Office's free, online training, *Contract Administration for Public Employees*.

The ISAU also evaluated a complaint from a resident of a town in the Berkshires that the town's Select Board had improperly applied for a MassDOT grant without seeking approval from town residents. The ISAU found that the town's Select Board was authorized to apply for grant money without a Town Meeting vote, and that in any event, the town had voted in 2017, and again in 2020, to allow the town to apply for state and federal grants.

Furthermore, to prevent fraud, waste and abuse of transportation funds, staff taught three anti-fraud trainings in 2020. The ISAU provided two sessions for MBTA project managers and one session for MassDOT staff who oversee highway maintenance and construction projects. These training sessions explored common fraud schemes, fraud prevention techniques and red flags for vendor fraud. Additionally, an ISAU employee developed and taught a class on financial statement fraud for the Office's Massachusetts Certified Public Purchasing Official (MCPPO) Program. The class used case studies to walk through fraud basics, red flags and strategies to detect fraud on financial statements.

Finally, the ISAU continues to operate two confidential hotlines, one for complaints from the public and a second to receive information from MassDOT employees. In 2020, the unit received and reviewed 212 complaints about suspected fraud, waste or abuse in the expenditure of transportation funds.

BACKGROUND

I. Internal Special Audit Unit

The Massachusetts Office of the Inspector General (Office) is an independent state agency charged with preventing and detecting fraud, waste and abuse in the use of public funds and public property. In keeping with its broad statutory mandate, the Office investigates allegations of fraud, waste and abuse at all levels of government; reviews programs and practices in state and local agencies to identify systemic vulnerabilities and opportunities for improvement; and provides training and assistance to both the public and private sectors to help prevent the misuse of government funds.

The legislature created the Internal Special Audit Unit (ISAU) in 2009 to monitor the quality, efficiency and integrity of the Massachusetts Department of Transportation's (MassDOT) operating and capital programs. The ISAU has a staff of five professionals dedicated to performing audits, investigations and reviews. The ISAU assists the Commonwealth, the public, MassDOT and the Massachusetts Bay Transportation Authority (MBTA), as well as local cities and towns, by identifying potential cost savings, waste and misuse of transportation funds. The ISAU's activities include, but are not limited to:

- Investigating allegations of fraud, waste and abuse in the expenditure of public and private transportation funds. This includes handling complaints from members of the public, as well as from MassDOT and MBTA employees, regarding suspected wrongdoing.
- Reviewing MassDOT's operations and programs to ascertain whether they are efficient, cost-effective and achieve established results. This includes reviewing the MBTA's operations and regional transit authorities.
- Determining whether MassDOT and the MBTA are complying with applicable policies, procedures, laws and regulations.
- Evaluating the MBTA's outsourcing of services under Section 196 of Chapter 46 of the Acts of 2015, including reviewing the quality of the services provided, the expected and actual cost of the contract, and how the cost of the contract compares to the benefits derived from it.
- Reviewing city and town capital improvement projects, such as highway construction and roadway enhancements, that are funded through programs that MassDOT administers.
- Working with MassDOT and the MBTA to strengthen internal controls, contract administration and procurement practices.
- Auditing, investigating and reviewing specific operations at the request of the legislature, MassDOT's Board of Directors and MassDOT's management, as appropriate.
- Participating in the Registry of Motor Vehicles' Disability Placard Abuse Task Force and supporting its placard abuse hotline.

II. Massachusetts Department of Transportation

Created as part of Transportation Reform in 2009, MassDOT manages the Commonwealth's roadways, public transit systems, and transportation licensing and registration. It is made up of four divisions: the Highway Division, the Registry of Motor Vehicles (RMV), the Aeronautics Division, and the Rail and Transit Division. The MBTA is responsible for operating public transportation services in Greater Boston; it also falls under MassDOT's governance.

The Highway Division is responsible for the roadways, bridges and tunnels of the former Massachusetts Highway Department and the former Massachusetts Turnpike Authority. The Highway Division also administers several transportation programs that benefit cities and towns, including Chapter 90 funding and Complete Streets grants.³ Among other duties, the RMV is responsible for the administration of driver's licenses, motor vehicle registrations and vehicle inspections across the state. The Aeronautics Division coordinates aviation policy and oversees the safety, security and infrastructure of 35 public airports across Massachusetts. The Rail and Transit Division oversees all transit, freight and intercity rail initiatives, as well as the state's 15 regional transit authorities.

MassDOT is governed by an eleven-member board appointed by the Governor and chaired by the Secretary of Transportation. The other ten members must have experience in public or private finance, transportation planning and policy, municipal government, civil engineering and labor organizations. No more than six board members may be members of the same political party.

³ While commonly referred to as "Chapter 90," the statutory authority for the program is now codified as Section 4 of Chapter 6C of the Massachusetts General Laws.

AUDITS, INVESTIGATIONS AND REVIEWS

The ISAU conducts a wide range of investigations, reviews and audits related to the use of public and private transportation funds. Some of the ISAU's work results in public reports and letters, while some activities include collaborative efforts to help MassDOT and the MBTA improve their policies, procedures and internal controls. After a preliminary evaluation or an investigation, the ISAU may also refer matters to MassDOT or the MBTA for their action. Lastly, the ISAU also refers cases to other Office divisions and law enforcement authorities for administrative, civil or criminal action. This section of the report summarizes the ISAU's principal investigations, reviews and audits over the last year.

I. Merit Rating Board

The legislature created the Merit Rating Board (MRB) in 1976 to administer the state's safe driver insurance plan (SDIP), which insurance companies may use to adjust premiums for motor vehicle insurance based on a person's driving record.⁴ Located within the Registry of Motor Vehicles, the MRB also collects and updates driving records and processes motor vehicle citations. A three-member board (Board) – comprised of the Registrar of Motor Vehicles, the Commissioner of Insurance and the Attorney General (or her designee) – oversees the MRB.⁵ The Board appoints a director to oversee the MRB's day-to-day operations.

Following a fatal accident involving a Massachusetts driver in the state of New Hampshire, it came to light that for years, neither the MRB nor any unit at the RMV had processed notifications from other states concerning driving offenses committed by Massachusetts drivers. Following the accident, the RMV created a dedicated unit to process out-of-state notifications. However, the accident also exposed concerns related to the MRB's operations.

At the request of the MRB's Board, in October 2019, the ISAU began an in-depth review of the MRB to provide recommendations to improve its operations, practices and procedures. The Board also asked the ISAU to review the MRB's current role and responsibilities, as well as to identify potential risks to or gaps in the MRB's ability to meet its statutory obligations.⁶ In 2020, the ISAU continued this ongoing review.

Throughout the review, the leadership and staff at the MRB, RMV and MassDOT have been collaborative and receptive to the ISAU's findings and recommendations. The ISAU met with the MRB director and his staff several times in 2020 to review the status of the recommendations and the MRB's

⁴ The SDIP establishes penalties for surchargeable events, such as traffic violations, as well as credits for having a safe driving record.

⁵ Confusingly, the statute that created the Merit Rating Board provides that it is governed by a board, which is also named "Merit Rating Board." To avoid confusion, the Office refers to the unit as the "MRB" and its governing board as the "Board."

⁶ The Office's review does not encompass the causes of the failure to process out-of-state notifications; the RMV retained a private forensic auditing firm to undertake that analysis.

progress to improve performance in certain areas. The ISAU also shared its findings and recommendations with the MRB's Board. In this report, the ISAU details the findings and recommendations that it has reported to the Board.

In 2020, the ISAU analyzed the MRB's statutory duties, regulations, historical responsibilities and legal authority, as well as the statutes and regulations governing the RMV's duties to maintain driving records. The ISAU's objective was to better understand the MRB's role within the RMV and to evaluate whether the MRB is fulfilling its statutory obligations. The review included researching the legislative history of these statutes and regulations throughout changes to the RMV's placement in the state's executive branch. The ISAU presented its detailed findings to the MRB's Board in December 2020.

Concurrently, the ISAU continued reviewing the MRB's operations and day-to-day functions. The ISAU interviewed current and former employees and met with staff from other agencies and organizations that work with the MRB, such as the Division of Insurance, the RMV's driver control unit, Commonwealth Auto Reinsurers, and MassDOT's budget and information technology divisions.⁷

Finally, the ISAU began analyzing the MRB's budget and spending. In fiscal year 2021, the MRB's budget was \$10,968,209. By statute, the MRB is funded through assessments to companies that sell motor vehicle insurance in Massachusetts. Specifically, the Division of Insurance bills assessments to the insurance industry and collects these funds, which are then appropriated to the MRB through the state's annual budget process.

The ISAU performed its budget analysis to determine whether the MRB expends funds in accordance with its statutory mandate and pays for costs only related to operating the MRB. The ISAU analyzed detailed spending data and related invoices, as well as expenses for information technology, employee salaries, fringe benefits, rent, utilities and technology chargebacks. The review also included analyses of staffing and system usage reports, as well as meetings with MassDOT's budget and information technology divisions.

During its review, the ISAU found that when the RMV switched to a new electronic records system in 2018, MRB staff did not receive adequate training on the new system. Specifically, in 2018, the RMV launched ATLAS, a new electronic system for processing and maintaining driving and vehicle records. When it began using ATLAS, the RMV did not provide MRB staff with tailored training on how to process motor vehicle citations, which is an essential function that the MRB performs.⁸ Instead, MRB employees received the same introductory-level training that all ATLAS users received. This training gave an overview of the basic user functions, and it was primarily directed toward RMV branch employees who provide

⁷ Commonwealth Automobile Reinsurers (CAR) was created pursuant to Chapter 175 of the Massachusetts General Laws. According to CAR's annual report, "as the designated statistical agent for motor vehicle insurance in Massachusetts, CAR collects, edits, analyzes and disseminates Massachusetts statistical data as directed by the Division of Insurance. This includes statistics related to number of vehicles insured and number of policy holders throughout the state." COMMONWEALTH AUTO. REINSURERS, 2020 ANNUAL REPORT 8 (2020), available at <https://commauto.com/aboutcar/AnnualReport2020.pdf> (last viewed Mar. 15, 2021).

⁸ Other MRB units, such as the quality control unit and the civil motor vehicle infractions payments unit, also did not receive training that was tailored to their functions.

customer service to the public. ISAU staff attended this training and confirmed that the material did not include modules on citation processing.

The ISAU therefore recommended that the MRB prioritize ATLAS training for all staff who process citations. Further, the ISAU recommended that the MRB consider leveraging its quality control unit for training; that unit is responsible for identifying and correcting citation-processing errors and therefore is familiar with common citation-processing mistakes. Lastly, the ISAU advised that the MRB should monitor employees' error rates and provide retraining as necessary.

The MRB agreed with the ISAU's recommendations and began developing a training program for new hires. Additionally, the MRB committed to providing regular staff training, as well as *ad hoc* training for those who need additional instruction.

The ISAU further found that after the RMV launched ATLAS, the MRB eliminated its employee goals for processing motor vehicle citations. Former MRB management decided that staff would not be able to meet the goals, which measured productivity and accuracy, while they were also learning how to use ATLAS. Eliminating the goals resulted in a decrease in the number of citations that staff processed, as well as a decline in staff morale.

The ISAU recommended that the MRB reinstitute performance goals that align with staff roles and seniority, and that the MRB hold poor performers accountable. The MRB and RMV agree with this recommendation and are working with MassDOT's labor relations division to reinstitute the performance goals.

The ISAU also found that the MRB needed formal, documented operating procedures for each of its divisions. Following discussions with the ISAU, the MRB and MassDOT created a comprehensive, 88-page procedure manual for its citation processing unit. In 2021, the MRB also finalized its operating procedures for its document control and quality control units. All three operating procedures provide clear, detailed processes, along with helpful visual aids, for both new and veteran staff. The ISAU continues to recommend that the MRB develop written procedures for its remaining units: customer service, insurance services and civil motor vehicle infraction payments.

During interviews with employees, the ISAU also learned that the MRB would benefit from enhanced internal communication. Possibly as a carryover from prior MRB management, staff reported a lack of inclusion and information-sharing. The ISAU recommended that the MRB hold staff meetings to share information and openly discuss productivity and goals. The new MRB director has improved communication within the MRB, including holding all-staff meetings and encouraging staff to attend Board meetings.

Finally, the MRB is now processing new citations within one-to-two business days. Further, the quality control unit no longer has a backlog of open items needing resolution. For comparison, in August 2019, the MRB reported that the unit had a backlog of approximately 22,000 open items. Also, the unit now prioritizes the most serious offenses and handles those first.

The MRB leadership and staff continue to be helpful and cooperative. Moreover, the Office appreciates the RMV's and the MRB's collaborative approach and responsiveness to the ISAU's recommendations.

II. Highway Division

A. Disadvantaged Business Enterprise

The U.S. Department of Transportation (USDOT) created the disadvantaged business enterprise (DBE) program to increase the number of minority- and women-owned businesses that work on federally funded transportation projects. USDOT describes the purpose of the program as follows:

The [DBE] program is designed to remedy ongoing discrimination and the continuing effects of past discrimination in federally assisted highway, transit, airport, and highway safety financial assistance transportation contracting markets nationwide. The primary remedial goal and objective of the DBE program is to level the playing field by providing small businesses owned and controlled by socially and economically disadvantaged individuals a fair opportunity to compete for federally funded transportation contracts.⁹

As part of the DBE program, state transportation agencies such as MassDOT must establish "participation goals," meaning goals for the number or percentage of contracts awarded to DBEs. Because most transportation projects involve numerous subcontractors and suppliers, transportation agencies must also set minimum goals for the number or percentage of subcontracts awarded to DBEs. In fiscal year 2022, for example, MassDOT has set its proposed goals for transit and highway projects at 5.5% and 13.6%, respectively. Furthermore, the prime contractor on each project must demonstrate a good-faith effort to award DBEs the required percentage of work.¹⁰

In addition to creating goals, MassDOT must verify that firms qualify as a disadvantaged business enterprise. Accordingly, MassDOT established a Unified Certification Program (UCP) for firms seeking certification to do business as a DBE.

In response to a complaint, the ISAU investigated allegations that a company had received subcontracts and supplied materials as a DBE even though the owner did not qualify as economically disadvantaged. The company has worked on MassDOT projects as a subcontractor and supplier for

⁹ Disadvantaged Business Enterprise Program, U.S. Department of Transportation website, *available at* <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise> (last viewed Mar. 15, 2021).

¹⁰ Prime contractors work directly with the government. They hire and manage any subcontractors and are responsible for ensuring that the work is completed as defined in the contract.

decades. Since 2001, for example, the company has received \$229 million on 228 MassDOT projects as a DBE or WBE. MassDOT last certified the business as a DBE in March 2016.

The ISAU concluded that the DBE owner was not economically disadvantaged under the federal DBE regulations, which state that a DBE owner's presumption of economic disadvantage can be rebutted if she is determined to be "able to accumulate substantial wealth."¹¹ The ISAU based its conclusion on an in-depth analysis of the business owner's overall economic condition, including her ownership of other businesses, vast real estate portfolio, access to credit, and lavish spending on both personal and business accounts.

Following its review, the ISAU referred the matter to MassDOT to evaluate the firm's DBE certification. As of this report, there has been no final decision on the business's DBE certification.

B. Park and Ride Lots

MassDOT owns several park and ride lots throughout the state to enable commuters to carpool, vanpool or ride a commuter bus to their workplace. Some of these locations also service riders to Boston Logan Airport. The ISAU conducted a high-level review to evaluate revenue-generating agreements on MassDOT-owned property, including park and ride lots. The purpose of the review was to evaluate whether MassDOT capitalizes on potential revenue from vendors that operate on state property.

The ISAU learned that MassDOT has periodically considered revenue-generating arrangements with these vendors, and that it has agreements with some private companies, such as Encore Boston. However, MassDOT generally does not have long-term, written lease agreements with private bus and retail vendors that use MassDOT-owned park and rides. Relatedly, MassDOT does not have cost-sharing agreements, such as for snow removal, with these vendors.

Taxpayers should not subsidize private, for-profit business ventures on Commonwealth property. Further, for-profit bus and retail vendors that use MassDOT's park and rides should contribute towards common maintenance expenses that allow the vendors to successfully operate. At the same time, the ISAU recognizes that MassDOT must balance revenue generation with other policy considerations, such as encouraging the use of park and ride lots in order to decrease traffic congestion and to align with state environmental goals.

Given current economic constraints and the pandemic's effects on state budgets, the ISAU recommended that MassDOT continue exploring ways to generate revenue from vendors that operate at the agency's park and ride lots. Specifically, the ISAU recommended that MassDOT consider entering into leases and cost-sharing agreements with private bus and retail vendors that use MassDOT-owned parking lots. However, because vendors have scaled back operations during the pandemic, the ISAU recognizes that MassDOT may only be able to take preliminary steps at this time.

¹¹ 49 C.F.R. § 26.67(b)(1)(ii)(A).

III. Transit and Commuter Rail

A. The MBTA's Privatization of Services

In 1993, the Massachusetts legislature passed the Act Providing for the Delivery of State Services in a Fiscally Responsible Manner (the Taxpayer Protection Act).¹² The Taxpayer Protection Act outlines the procedure that state agencies and applicable authorities must follow before hiring a vendor to perform services valued at \$500,000 or more “which are substantially similar to and in lieu of, services theretofore provided, in whole or in part, by regular employees of an agency.”¹³ The Act also details the review that agencies and authorities must conduct before hiring a vendor to perform a service that public employees currently perform.¹⁴ Replacing public employees with a private vendor is commonly referred to as privatization.

In 2015, the legislature passed a law exempting the MBTA from the Taxpayer Protection Act for three years.¹⁵ The 2015 law requires this Office to review all contracts that the MBTA enters into pursuant to this exemption. Specifically, within 90 days after the complete performance of an MBTA contract that falls under the exemption, the Office must file a report addressing the following:

- The competitiveness and fairness of the procurement process resulting in the contract.
- The quality of the services provided.
- The expected and actual cost of the contract.
- The actual cost of the contract compared to the benefits derived from the contract.

Since 2015, the MBTA has entered into seven privatization contracts in accordance with the exemption. All of the contracts are still active; that is, none has been completed. As a proactive measure, however, the ISAU initiated reviews of two of the contracts in 2020. These reviews are ongoing. The Office is required to issue a report not later than 90 days after complete performance of the contracts.

Last year, moreover, [the ISAU reported](#) on its preliminary review of the MBTA's contract with Management Consulting, Inc. (Mancon) to run its warehouse operations. “Warehouse operations” refers to storing, tracking and delivering the parts, equipment and other supplies necessary for maintaining and repairing the MBTA's buses, trolleys and subway cars.

The ISAU's preliminary review focused on the MBTA's contract, Mancon's compliance with the contract and the MBTA's oversight of Mancon's performance. The ISAU also reviewed the MBTA's analysis of the costs to privatize its warehouse operations and to perform these functions in-house. The ISAU

¹² M.G.L. c. 7, §§ 52-55.

¹³ M.G.L. c. 7, § 53.

¹⁴ One part of this process, for example, requires the State Auditor to review all agency requests to privatize services.

¹⁵ Section 196 of Chapter 46 of the Acts of 2015.

interviewed MBTA and Mancon employees; observed warehousing processes at the MBTA's and Mancon's facilities; and reviewed bidding, contract, financial and performance documentation. At the end of its preliminary review, the ISAU shared with MBTA senior management opportunities to improve contract and vendor oversight, enhance vendor performance and accountability, increase communication with field employees and promote successful execution of the contract.

The ISAU also shared its preliminary cost analyses with MBTA senior management. The ISAU could not validate the MBTA's calculation of its pre-privatization costs to operate the warehouse because the authority could not provide the documents or information underlying the calculation. The ISAU did, however, identify certain expenses that should not have been included in the calculation, leading to an overstatement of the annual costs. The ISAU also found that the MBTA's estimated cost to privatize understated some expenses, especially the costs to hire consultants to help with the initial phase of the privatization.

Since the ISAU's review, the MBTA has continued to improve its warehouse operations and its oversight of Mancon. In 2020, the MBTA reported that it has enhanced the process for emergency deliveries of equipment, parts and supplies. Further, the MBTA reports that, since July 2018, it has not had to cancel any bus or rail service because materials were not delivered on time.¹⁶ The MBTA and Mancon are also in the early stages of creating a "performance scorecard" for Mancon's material planners. Material planners work both at the warehouse and at the MBTA's garages and car houses.¹⁷ Their primary role is to ensure that the MBTA's mechanics receive the supplies and parts they need to make repairs in a timely manner. The MBTA expects the scorecard to help it and Mancon evaluate the planners' productivity and performance, including their knowledge of the parts and supplies that the MBTA uses in its subway cars, buses and trolleys. The MBTA also has made training materials available to Mancon through the MBTA's learning management system. Mancon may also use the learning tools for training new staff.

In addition, the MBTA has taken steps to improve communication between field staff and the logistics team.¹⁸ The MBTA developed a presentation providing MBTA field staff with an overview of the Mancon contract. The logistics team also holds quarterly meetings with bus-and-rail-operations staff to discuss fleet transitions and staff needs in the field, as well as team responsibilities and initiatives. The logistics team also now includes rail supervisors, bus supervisors and foremen in bi-monthly supply-chain meetings, at which the team discusses warehouse performance and metrics.

¹⁶ According to the MBTA, it decided to privatize its warehouse operations in part because its in-house warehouse operations did not deliver materials on a timely basis. As a result, the MBTA had to cancel passenger trips while buses and subways sat idle waiting to be repaired.

¹⁷ The MBTA maintains and repairs the majority of its buses, trolleys and subway cars at its garages and car houses in the Boston area. A car house is a garage for subway and trolley cars.

¹⁸ "Field staff" refers to the MBTA employees who work in the garages and car houses. "Logistics team" refers to the MBTA's vendor management team that oversees and evaluates Mancon's performance.

To date, the MBTA has not acted upon the ISAU's recommendation concerning Mancon's noncompliance with aspects of its contract. Specifically, in its [preliminary report](#), the ISAU recommended that the MBTA hold Mancon accountable for not providing a viable inventory system or completing an initial wall-to-wall inventory.

B. Commuter Rail Fare Collection

The MBTA, with approval from its Fiscal and Management Control Board, sets the fare structure for traveling on the MBTA's subways, trolleys, ferries, buses and commuter rail (collectively, the MBTA system). In 2019, the *MBTA Commuter Rail Tariff* set out the MBTA's rates and payment options for traveling across the MBTA system.¹⁹

Pursuant to the *2019 Tariff*, members of the state police, as well as members of the police and fire departments in the municipalities where the MBTA operates, may travel for free when in full uniform, including an official badge. Detectives in plain clothes may also travel for free as long as they show their official identification. Detectives must also be actively engaged in detective work. The *2019 Tariff* stated that the provision relating to police and fire personnel did not apply to the following groups: probation officers, correctional officers, security, special police officers and private emergency medical services staff.

In 2020, the ISAU received a complaint that Keolis conductors were allowing Massachusetts trial court officers to ride on the commuter rail for free. The ISAU concluded that the *2019 Tariff* did not exempt trial court officers from commuter rail fares; that is, trial court officers were required to pay to ride on the commuter rail.

The ISAU recommended that the MBTA update the tariff to expressly exclude court officers. Furthermore, to ensure that conductors understand and comply with the MBTA's rate structure, the ISAU recommended that the MBTA retrain Keolis' fare-collecting staff. In September 2020, the MBTA updated its tariff.²⁰ The updated language even more clearly states that the provision on police and fire personnel only applies to the state police and members of the police and fire departments in the cities and towns where the MBTA operates.

IV. Municipal and Town Projects

A. Town of Eastham

In 2020, the ISAU reviewed the town of Eastham's oversight of a roadway project funded through the state's Chapter 90 program. The review, initiated from a hotline tip, focused on an overpayment to

¹⁹ MBTA COMMUTER RAIL TARIFF (2019).

²⁰ MASS. BAY TRANSP. AUTH., MBTA TARIFF AND STATEMENT OF FARE AND TRANSFER RULES 31 (2020), *available at* <https://cdn.mbta.com/sites/default/files/2020-09/2020-09-01-mbta-combined-tariff.pdf> (last viewed Mar. 15, 2021).

All States Asphalt, Inc. (All States Asphalt) in 2017. The ISAU uncovered weak town oversight and financial controls on the road-resurfacing and chip-sealing project. Although the overpayment was relatively small, the review highlighted the importance of contract management and vendor oversight.

Created by the Massachusetts Legislature in 1973, the Chapter 90 program provides annual funding to municipalities for transportation infrastructure projects on municipal ways, including roads and bridges. Under Chapter 90, cities and towns receive 100% reimbursement from the state on approved projects. MassDOT oversees the program, approves projects and handles reimbursement.

In 2017, the town of Eastham's superintendent of public works applied for Chapter 90 funds to resurface roads from Aspinet Road to Schoolhouse Road. The town estimated that the project would require 62,778 square yards of rubber chip seal. Based on the information the town provided in its application, MassDOT approved funding for the project.

The town hired All States Asphalt to perform the work on the project. Following the completion of work, All States Asphalt invoiced the town for 62,250 square yards of rubber chip seal, for a cost of \$283,237.50. The invoice had no details, such as how many square yards of rubber chip seal the contractor had used for each road. Nor did the invoice include any back-up documentation showing the amount of rubber chip seal the contractor had applied. Nevertheless, the then-current superintendent approved the payment.

In April 2018, town officials were alerted to a potential overpayment on the roads resurfacing project. Following an internal review, the town determined that the vendor had used 59,245 square yards of rubber chip seal on the project, 3,005 square yards less than the invoiced quantity. The difference in quantities resulted in an overpayment of \$13,672. The town administrator also concluded that neither the former superintendent nor the vendor had measured how many square feet of road the vendor had resurfaced. Further, the former superintendent had disregarded a readily accessible pavement study of road measurements and had failed to conduct his own measurements.

Following the town's internal review, the town administrator made staffing changes, notably hiring a new superintendent of public works, who recovered the entire overpayment from All States Asphalt. Town officials also worked with MassDOT to identify an appropriate method for returning the overpayment, concluding that MassDOT would deduct \$13,672.75 from the reimbursement on a future Chapter 90 project.

Chapter 90 funds are essential to local improvement projects, and because the state has limited public funds, it is imperative that municipal officials oversee the funds appropriately and institute measures to safeguard resources. Municipal officials must be vigilant in contract administration. Adequate contract administration is crucial to project success and reduces the risk of fraud, waste and abuse.

Following its [review](#), the ISAU recommended that the town enhance its contract administration and vendor oversight to ensure that the town only pays for the materials and services that it receives. The ISAU stressed that all town officials must actively oversee vendor work, including confirming that work is

completed satisfactorily and according to the contract. In Chapter 90 projects, this includes measuring the quantity of material used to ensure that the town only pays for the supplies used on the project. Best practices also include only approving invoices that are detailed and provide sufficient identifying information, such as a description of work, total quantity, unit of measure, unit price and the location of services performed (if applicable).

B. Town Roadway Project

In 2020, the ISAU evaluated whether a town Select Board acted appropriately when applying for a MassDOT grant in connection with a town roadway project. Specifically, the ISAU undertook the review after a hotline complainant questioned whether the Select Board was required to seek town residents' approval before applying for the funds.

Following its evaluation, the ISAU concluded that the Select Board was authorized to apply for and expend state and federal grant money without a town vote. Both state law and a town bylaw authorized the type of grant at issue. Further, the town's residents voted as early as 2017, and as recently as July 2020, to allow the Select Board to apply for any state monies and to expend any monies received as set forth in the relevant application.

V. Other Reviews and Referrals

As discussed more below, the ISAU operates several public-facing hotlines, which members of the public, public employees and other whistleblowers may use to report potential fraud, waste, abuse or mismanagement of public and private transportation funds and programs. Although every complaint does not result in a full investigation, the ISAU does conduct a preliminary review of every complaint. If this preliminary review substantiates the complaint, the ISAU may refer the matter to the appropriate MassDOT or MBTA division for corrective action.

During 2020, the ISAU referred several complaints to MassDOT and the MBTA. ISAU staff also worked collaboratively with MassDOT and the MBTA to resolve many issues and inquiries. The various reviews, referrals and collaborations included topics such as:

- Land development deals: The ISAU investigated general concerns about the financial solvency of a real estate developer that was awarded a contract for a public-private development project. The ISAU reviewed the claims and determined that the department's evaluation process sufficiently assessed the financial health of all bidders.
- Equipment operation and efficiencies: The ISAU reviewed a complaint alleging that workers were not permitted to operate equipment that sat idle, which hindered staff efficiency. The ISAU referred the matter to the appropriate subject matter expert.

- **Faulty maintenance equipment:** The ISAU reviewed a complaint that an owner of multiple companies may have provided defective materials and supplies to the MBTA. The agency confirmed that it received all supplies and that none were defective.
- **Subcontractor overbilling:** The ISAU reviewed allegations that a contractor overbilled for its employees' time. The ISAU determined, however, that the vendor did not bill the agency for its employees' work hours. Instead, the agency paid the vendor fixed sums based on the vendor's progress on the contract.
- **Time and attendance abuse:** The ISAU received a time-fraud complaint alleging that an employee regularly failed to complete a full workday. The ISAU's analysis revealed that the employee did not work between 30 to 60 minutes each day observed. The review also uncovered opportunities to improve staff timekeeping mechanisms. The ISAU advised the agency and recommended specific timekeeping improvements.

VI. Investigations Referred to the Office of the Inspector General and Attorney General's Office

In accordance with Section 9(d) of Chapter 6C of the Massachusetts General Laws, the ISAU may report and refer findings to the investigative division of the Office, and the results of such investigations may be referred to the Attorney General for appropriate action. During 2020, the ISAU continued to work collaboratively with the Office's other divisions and the Attorney General's Office on a number of matters, referring cases as appropriate.

OTHER ACTIVITIES

I. Fraud Prevention Training

In furtherance of its mission to prevent fraud, waste and abuse of transportation funds, the ISAU developed and delivered fraud prevention training in 2020 at the request of MassDOT and the MBTA. In March 2020, the ISAU team led two training sessions for MBTA project managers. In September 2020, the ISAU trained MassDOT highway field staff who oversee maintenance and construction contracts. The MassDOT and MBTA training sessions outlined common fraud schemes, fraud prevention techniques and red flags for vendor fraud.

Also in 2020, the ISAU developed and taught a class on financial statement fraud for the Office's Massachusetts Certified Public Purchasing Official Program. Using case studies, the class focused on the basics of fraud awareness, red flags and analytic strategies to detect fraud on financial statements.

II. Hotlines

The ISAU maintains two hotlines for members of the public to confidentially report suspected fraud, waste or abuse in the expenditure of MassDOT funds; the hotlines are available on the Office's, MassDOT's and the MBTA's websites. Furthermore, in 2020, the Office revamped its website and created an online [form](#) for reporting fraud, waste and abuse. The ISAU also maintains employee hotlines on MassDOT's and the MBTA's intranets.

The ISAU evaluates each complaint to determine whether it falls within its jurisdiction and whether it merits action. Some complaints lead to extensive investigations, some are referred to other agencies and others are closed if a preliminary inquiry fails to substantiate the allegations. Additionally, the ISAU sometimes refers complaints to MassDOT or the MBTA if it determines that action would be best handled directly by the appropriate division. Finally, in some instances, the inquiry or question is outside of the ISAU's jurisdiction; in such cases, the ISAU provides the complainant with the appropriate source for handling their complaint. For example, when an individual calls with questions related to renewing their driver's license, the ISAU provides the contact information for the RMV's customer service division.

During 2020, the ISAU received 212 complaints. Figure 1 details the sources of the complaints and Figure 2 outlines the ISAU's action by receipt method.²¹

²¹ In Figure 2, "Referral" means the ISAU reviewed the complaint, deemed the complaint legitimate and referred it to the appropriate agency, usually MassDOT or the MBTA. "Directed Complainant to the Appropriate Agency" means that the ISAU determined that the matter was outside of the ISAU's jurisdiction; however, the ISAU provided the complainant with the appropriate source for handling their complaint.

Figure 1. Intake Source by Month.

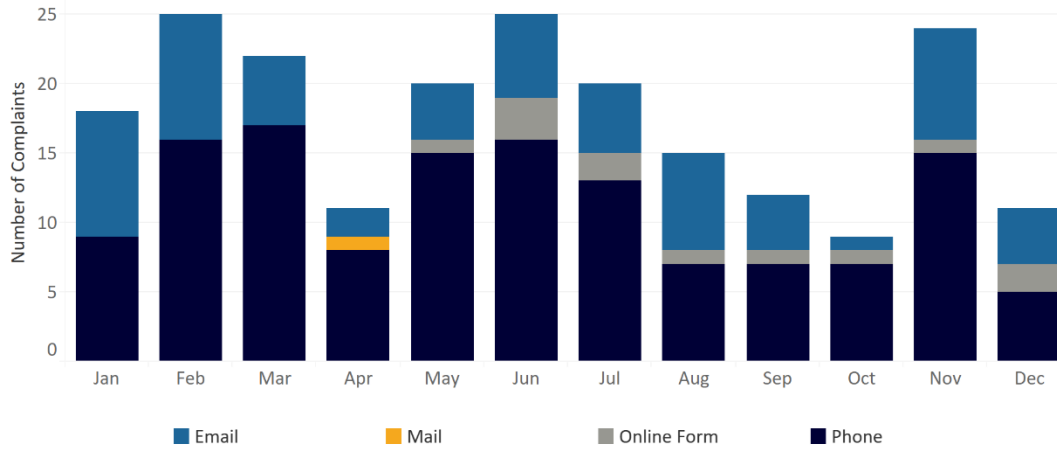
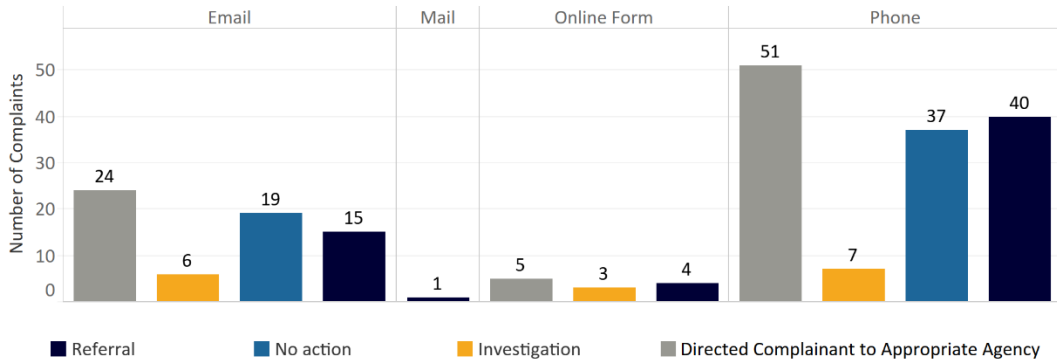


Figure 2. ISAU Actions on Complaints Received in 2020.



Finally, the ISAU also monitors the RMV’s disability parking placard abuse hotline and receives reports of suspected placard abuse from the public. The RMV’s Medical Affairs Bureau processes this information for further investigation. In 2020, the ISAU received 42 reports of alleged placard abuse.