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COMMONWEALTH OF MASSACHUSETTS

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**Internal Special Audit Unit:
2021 Annual Report**

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TABLE OF CONTENTS

Executive Summary.....	1
Background	5
I. Internal Special Audit Unit	5
II. Massachusetts Department of Transportation	6
Audits, Investigations and Reviews.....	7
I. Highway Division.....	7
A. Bridge-Maintenance Contracts.....	7
B. Disadvantaged Business Enterprise	10
II. Merit Rating Board.....	12
III. Office of Real Estate and Asset Development	18
IV. Massachusetts Bay Transportation Authority	18
A. Transit Police Department.....	18
B. Transit Police Retirement Plan	19
C. The MBTA’s Privatization of Services	21
V. Other Reviews and Referrals	23
VI. Investigations Referred to the Office of the Inspector General and Attorney General’s Office ...	24
Other Activities	25
I. Fraud Prevention Training	25
II. RMV Disability Placard Abuse Task Force	25
III. Hotlines	25
APPENDIX 1: MBTA Privatization contracts	28

EXECUTIVE SUMMARY

The Legislature created the Internal Special Audit Unit (ISAU or Unit) 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 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 the 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.

This report summarizes the ISAU's principal investigations, reviews, audits and other activities over the last year.

Bridge-Maintenance Contracts. The ISAU concluded investigations into two companies, NEL Corporation and Kodiak Corporation, that maintain and repair bridges for MassDOT. The ISAU reviewed five contracts that MassDOT had with NEL and four contracts with Kodiak. The nine contracts required the companies to provide specific items – including certain tools, equipment and supplies – without additional charges to MassDOT. The ISAU found, however, that the companies had charged MassDOT for unallowed items for several years under all nine contracts.

After identifying evidence of overbilling in all nine bridge-maintenance contracts it reviewed, the ISAU collaborated with the Office's Civil Recovery Unit and the Attorney General's Office to recover the overpayments. In total, the Office recovered \$755,000 from the two companies. Both companies also agreed to put measures in place to prevent future overbilling. Further, during the ISAU's investigation, the Highway Division began to standardize maintenance contracts across all six of its highway districts. This initiative will help provide uniformity to both MassDOT staff and vendors, reduce uncertainty about the interpretation of different contract terms, and allow staff to become more conversant about standard contract provisions, such as provisions regarding permissible charges and billing requirements.

Disadvantaged Business Enterprise. Following a hotline tip, the ISAU reviewed whether a MassDOT-certified disadvantaged business enterprise (DBE) qualified for the state's DBE program, which is designed to give small businesses owned and controlled by socially and economically disadvantaged individuals a fair opportunity to compete for transportation contracts. The ISAU found that the company's success as a construction subcontractor and supplier had allowed its owner to "accumulate substantial wealth," which meant that the company no longer qualified to participate in the DBE program. The ISAU

¹ Section 9 of Chapter 6C of the General Laws was passed through the enactment of Section 8 of Chapter 25 of the Acts of 2009.

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. MassDOT's Unified Certification Program Board is currently reviewing this company's DBE certification.

Merit Rating Board. The ISAU continued its 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 2021, the ISAU continued its review and analyzed the MRB's spending to determine whether the MRB expends funds in accordance with its statutory mandate and pays only for costs related to its operations. Because the Legislature funds the MRB through a separate appropriation, the MRB's budget should only be used to pay for its operating costs.

The MRB's spending can be divided into two major components: (1) direct spending, such as for staff salaries and office expenses; and (2) MassDOT information technology (IT) expenses. Historically, the MRB has retained approximately half of its budget for direct expenses, and MassDOT has used the other half towards its IT budget. The ISAU reviewed both components.

After analyzing detailed spending data and invoices, the ISAU concluded that the MRB appropriately used its portion of the MRB budget in fiscal year 2018. The ISAU chose this fiscal year because it was the last full fiscal year before the fatal accident that led to the ISAU's review. Turning to the second component, the ISAU evaluated the IT expenses that MassDOT paid for with MRB funds. The ISAU found that the MRB pays for a significant portion of the fees that the state's Executive Office of Technology Services and Security (EOTSS) charges MassDOT to provide IT support. In fiscal year 2018, for example, MassDOT used almost \$3.9 million in MRB funds for the fees that EOTSS charged to support all of MassDOT. This represented 30% of EOTSS's entire charges to MassDOT for IT services in 2018. The ISAU could not substantiate that the \$3.9 million allocation was directly related to the MRB's actual IT needs and usage. Finally, the ISAU also found that in fiscal year 2018 alone, MassDOT used \$560,862 in MRB funds for IT expenses for RMV branches that were unrelated to the MRB's operations.

The ISAU presented its findings to the Merit Rating Board in 2021, and met regularly with individuals at the MRB, RMV and MassDOT. The ISAU recommended that MassDOT develop a method for calculating the amount to charge the MRB based on the MRB's actual technology and system usage. The ISAU also advised MassDOT to use MRB funds only for expenses directly related to the MRB's statutory obligations and duties.

MassDOT Leases. MassDOT owns property throughout the state and generates revenue by leasing the property to private companies. The ISAU reviewed leases that MassDOT has with three companies and found that all three companies may have underpaid MassDOT. The ISAU determined that one company did not pay rent for several months in 2020 and 2021. The ISAU learned that the company, which operates a parking garage in Boston, may be eligible for a rent abatement if it can show that the COVID-

19 pandemic adversely affected its business. The ISAU asked MassDOT to recover all unpaid rent, taking into consideration any rent abatement that the department awards. MassDOT's contracts with the other two companies include audit provisions that allow MassDOT to audit the company's lease payments. MassDOT has engaged an outside auditor to review both companies' payments, and the audits are currently underway.

MBTA Transit Police Department. Working with the Office's Audit, Oversight and Investigations Division (AOI), the MBTA Transit Police Department and the Suffolk County District Attorney's Office, the ISAU investigated allegations that three former MBTA transit police officers committed time theft. As a result of this investigation, all three were charged with larceny for allegedly collecting pay for hours they did not work. Following the charges, two of the former officers paid approximately \$12,000 in restitution to the MBTA and have been placed on pre-trial probation. The case against the third former officer is still pending in the Boston Municipal Court.

MBTA Transit Police Retirement Plan. Working with AOI, the ISAU examined supplemental and disability retirement benefits that the MBTA Police Association Retirement Plan paid to several retirees. The Office found that the Retirement Plan had overpaid 24 retirees \$470,217 in supplemental retirement and disability retirement benefits.

The Office determined that the Retirement Plan overpaid the retirees because it had poor internal controls and no systems to track and terminate payments when retirees were no longer eligible. When the new executive director of the Retirement Plan discovered the overpayments, she put controls in place to ensure the plan pays the correct retirement benefits going forward. The Retirement Plan also entered into repayment plans with the retirees who received the overpayments.

MBTA Privatization. Between 2015 and 2018, the MBTA outsourced seven services pursuant to a temporary exemption from the Taxpayer Protection Act.² By statute, the Office must review all MBTA contracts for privatized services.³ Specifically, within 90 days after the complete performance of an MBTA contract that falls under the exemption, the Office must file a report on the privatization efforts. Although all seven contracts are still active and the services are ongoing, the ISAU continued to actively monitor their statuses and extensions to meet the Office's reporting requirements.

Federal Pandemic Funding. The MBTA has received, or anticipates receiving, approximately \$2.2 billion in federal assistance in response to the COVID-19 pandemic. As part of its statutory mandate to monitor the quality and efficiency of MassDOT's programs, in 2021, the ISAU began to review the MBTA's use of its federal pandemic assistance funds. In December 2021, the Legislature created an oversight reserve fund for four state oversight agencies, including this Office, to review state and local agencies' use of federal pandemic funds. The ISAU will continue its reviews of pandemic funds in 2022 in accordance with its statutory mandate and the oversight reserve fund.

² M.G.L. c. 7, §§ 52-55.

³ Section 196 of Chapter 46 of the Acts of 2015.

Anti-Fraud Training. In addition to the investigations, audits and reviews outlined above, ISAU staff taught anti-fraud trainings in 2021 to help prevent fraud, waste and abuse of transportation funds. The trainings examined common fraud schemes, fraud prevention techniques and red flags for vendor fraud. Additionally, two ISAU employees developed and taught a class on managing municipal construction projects. The class focused on contract administration, common construction fraud schemes and false claims recoveries. The ISAU presented this training with staff from MassDOT's Community Grants Program.

Hotlines. Finally, the ISAU continues to operate two confidential hotlines, one for the public and a second for MassDOT and MBTA employees. In 2021, the Unit received and reviewed 257 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) to monitor the quality, efficiency and integrity of the Massachusetts Department of Transportation's (MassDOT or Department) operating and capital programs. Formally established in 2013, the ISAU has a staff of seven 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, the competitiveness and fairness of the procurement, 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 and the MBTA's Board of Directors and 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

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.

The Highway Division is responsible for maintaining the state’s roadways, bridges and tunnels. The Highway Division also administers several transportation programs that benefit cities and towns, including Chapter 90 funding and Complete Streets grants.⁴ 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. One member must be a transit rider, and the other 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, excluding the chair, may be members of the same political party.

In July 2021, the governor signed legislation to establish a permanent MBTA Board of Directors (MBTA Board) and, on October 27, 2021, the new MBTA Board met for the first time as the governing body of the MBTA. The MBTA Board replaced the Fiscal and Management Control Board, which oversaw the MBTA from July 1, 2015, to June 30, 2021. Composed of seven members with three subcommittees, the full board meets monthly to oversee the MBTA’s affairs. The MBTA Board’s duties include approving budgets, addressing ridership and revenue challenges, approving certain large contracts and bargaining with labor organizations.

⁴ 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. The program provides funding to municipalities for transportation infrastructure project on municipal ways, including roads and bridges. These projects create or extend the life of capital facilities and roadways.

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. Other ISAU investigations result in settlements with companies that do business with MassDOT or the MBTA.

After a preliminary evaluation or an investigation, moreover, the ISAU may refer matters to MassDOT or the MBTA for action. 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. Highway Division

A. Bridge-Maintenance Contracts

The Highway Division is responsible for 3,471 bridges and 9,575 roadway miles across Massachusetts. The Highway Division contracts with several companies to help maintain these roadways and bridges. The six highway district offices administer these contracts and oversee the companies that perform roadway and bridge maintenance within their jurisdiction.

During 2021, the ISAU concluded two multi-year investigations of companies that repair and maintain state bridges throughout eastern Massachusetts, the Cape and the Islands. The ISAU identified evidence of overbilling in both investigations, then worked with the Office's Civil Recovery Unit and the False Claims Division of the Attorney General's Office to recover the overpayments.

In total, the Office recovered \$755,000 from the two bridge-repair companies. Both companies also agreed to put measures in place to prevent overbilling MassDOT again, including appointing a contract manager to ensure that the company only bills for work, supplies and equipment that are allowed under the contracts with MassDOT. The companies also must immediately alert MassDOT and the ISAU if they discover overbilling or an overpayment. These measures remain in effect for five years. The settlement terms were included in assurances of discontinuance filed in Suffolk Superior Court.

1. Background

MassDOT's Highway Division outsources scheduled and emergency bridge maintenance and repairs to prequalified repair companies. MassDOT pays for the work on a time-and-materials basis, which means it pays for actual hours worked, as well as for the cost of materials, equipment rentals and certain specialized services. The companies are also allowed to bill MassDOT a standard 10% mark-up to the actual cost of the materials, equipment rentals and specialized services. Under the contracts, moreover, the companies must submit time records and invoices to document their labor, equipment and other costs.

As part of its investigation, the ISAU conducted an in-depth assessment of the contracts and the payment records for nine bridge-maintenance contracts. The Unit analyzed each of the contracts, met with staff at MassDOT, and reconciled company submittals and invoices with MassDOT payments.

2. NEL Corporation

NEL Corporation (NEL), a bridge-repair company based in Middleton, contracts with MassDOT to maintain and repair bridges throughout Massachusetts. Since fiscal year 2010, MassDOT has had 182 contracts with NEL and has paid the company over \$361 million.⁵ The ISAU examined five of NEL's contracts and found overpayments associated with all five. After the investigation, NEL agreed to repay the Commonwealth \$700,000 to resolve allegations that it knowingly overbilled MassDOT.

The five contracts the ISAU reviewed expressly stated that NEL was responsible for providing certain tools, equipment and work at no cost to MassDOT. For example, the rate that MassDOT paid NEL for repair work included NEL's use of its own tools and equipment. Items that were NEL's responsibility included sanitary facilities, personal protective equipment, field office equipment and various tools.

During its review, the ISAU found that NEL charged MassDOT for items expressly unallowed by the contract for several years on all five contracts reviewed. In addition, NEL added a 10% mark-up to these items on the invoices it submitted to MassDOT.

The ISAU worked with the Office's Civil Recovery Unit and the Attorney General's Office to recover \$700,000 from NEL. In addition to the monetary payment, NEL agreed to nonmonetary assurances to prevent similar overbilling on current and future MassDOT contracts. NEL designated a contract manager to ensure that the company only bills MassDOT for work, supplies and equipment allowed in the contracts. NEL's contract manager must provide quarterly certifications to the ISAU and MassDOT that all billing meets contract requirements. Further, every year for five years, NEL must retain an outside auditor to review its billing on all open MassDOT contracts. The auditor must certify to MassDOT and the ISAU that it has completed the audit and provide a copy of the report, which must identify any overbilling and outline a plan to correct any issues identified.

In addition, NEL must immediately notify MassDOT and the ISAU if it discovers any unallowed billing or overpayments. To date, NEL reported an additional \$9,400 in incorrect billing for items such as toilets, company-owned equipment and incidental tools. NEL resolved this overbilling by giving MassDOT an offsetting credit on subsequent bills. Lastly, NEL retained an outside auditor for its annual report, which is due to the ISAU in June 2022.

⁵ In Massachusetts, the state government's fiscal year begins on July 1 and ends on June 30. For example, fiscal year 2022 began on July 1, 2021, and ends on June 30, 2022.

3. Kodiak Corporation

MassDOT also contracts with Kodiak Corporation (Kodiak) to maintain and repair bridges throughout the Commonwealth. Since fiscal year 2010, MassDOT has entered into 25 contracts with Kodiak and has paid the company over \$76 million.

The ISAU reviewed four of MassDOT's contracts with Kodiak. Like NEL, Kodiak's contracted work included specific items, tools and materials that it was to provide at no additional cost to MassDOT. The ISAU found, however, that Kodiak charged MassDOT for unallowed items in all four contracts, including for such items as personal protective equipment, sanitary facilities, tools, equipment and delivery charges. In addition, Kodiak charged MassDOT a 10% mark-up for the items not allowed by the contract. The ISAU also found that Kodiak billed for the same work and materials twice by submitting the same invoice more than once.

The ISAU worked with the Office's Civil Recovery Unit and the Attorney General's Office to recover \$55,000 from Kodiak. As part of the settlement, Kodiak also agreed to implement measures to prevent future overbilling. Like NEL, Kodiak must designate a contract manager to ensure that the company only bills MassDOT for work, supplies and equipment allowed in the contracts. Additionally, the contract manager must train all employees who bill under MassDOT contracts and ensure that Kodiak meets all contract requirements. Lastly, Kodiak must immediately notify MassDOT and the ISAU if it discovers any unallowed billing or overpayment. These measures remain in effect for five years, until January 21, 2027. To date, Kodiak has not notified the ISAU of any additional overbilling.

4. MassDOT Prequalification Committee

In response to the ISAU's investigations, MassDOT temporarily suspended NEL's prequalification status, which would prevent the company from bidding on or being awarded MassDOT projects. MassDOT's Prequalification Committee (Committee) also requested that NEL provide evidence that it had complied with the assurance of discontinuance, as well as additional documents, to reinstate its prequalification status. Specifically, MassDOT requested documents relating to the following:

- Identity of the contract manager(s) designated for existing contracts.
- Syllabus for training on billing under the contract.
- Listing of employees who have taken or who were scheduled to take the billing training and dates of training.
- Sample or summary of quarterly reporting on billing determination and billing noncompliance plan.
- Identity of the independent third-party auditor who will perform internal billing review.
- Confirmation of first \$350,000 settlement payment.
- The corrective action plan for the Committee to review.

NEL provided all documents the Committee requested and appeared before the Committee in May 2021. During the open meeting, NEL addressed the Committee's questions. At the time of the meeting, NEL had 30 open contracts with MassDOT. The Committee determined that NEL provided satisfactory responses and documentation, and the Committee voted to reinstate NEL's prequalification certificate.

5. MassDOT Highway Division Contract and Process Improvements

As part of its review, the ISAU identified the need for MassDOT to standardize its bridge-maintenance contracts. When the ISAU began its review, contracts for bridge maintenance varied in substantial ways across MassDOT's six highway districts, and in some instances varied within the same district. Across the nine NEL and Kodiak contracts that the ISAU reviewed, for example, some contracts allowed the bridge vendors to bill for certain tools while others strictly prohibited reimbursement for those same tools. As a second example, some contracts allowed the vendor to bill for travel while other contracts did not.

Inconsistency among contracts and the use of different contract language causes confusion concerning what is (and is not) permissible under each specific contract, leading to billing errors and disputes. On the other hand, standard terms and conditions provide consistency across districts and minimizes confusion for vendors that work throughout the Commonwealth. MassDOT staff who oversee the contracts also benefit from uniform contract language. For instance, uniformity reduces uncertainty about the interpretation of different contract terms, and it allows staff to become more conversant about standard contract provisions, such as provisions regarding permissible charges and billing requirements.

During the ISAU's investigation, the Highway Division began to standardize maintenance contracts across all six districts. In 2021, MassDOT reported it completed its goal to standardize all maintenance contracts, resulting in 24 standard contracts for maintenance-related projects for use in all districts. This effort will help MassDOT streamline contract development, improve contract management, and reduce opportunities for overbilling and fraud. MassDOT also reports that its standardization efforts have shortened the contract-review process, as well as the time between project advertisement and bid opening.

The ISAU commends the Highway Division for its standardization efforts. Addressing vague contract terms and standardizing special provisions helps to ensure that vendors submit, and MassDOT approves, only appropriate expenses.

B. 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.⁶

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 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.⁷

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 decades. Between 2001 and 2020, for example, the company has received \$229 million on 228 MassDOT projects as a DBE or a woman’s business enterprise (WBE).⁸ 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.”⁹ 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.

⁶ Disadvantaged Business Enterprise Program, U.S. Department of Transportation website, *available at* <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise> (last viewed March 15, 2022).

⁷ 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.

⁸ The DBE program is a USDOT program for federally funded transportation projects. The Commonwealth, through the Supplier Diversity Office, has a similar program for projects using only state funding. Businesses can apply for the state-issued certifications, including for minority-, woman-, veterans- and Portuguese-owned business certifications. MassDOT has WBE participation goals that prime contractors must meet on state-funded projects, similar to DBE goals on federally funded projects.

⁹ 49 C.F.R. § 26.67(b)(1)(ii)(A).

Following its review, the ISAU reported the matter to MassDOT to evaluate the firm’s DBE certification. As of the publication of this report, MassDOT’s Unified Certification Program Board is reviewing the business owner’s financial position and presumption of economic disadvantage that supports her DBE designation. A final decision has not yet been reached on the business’s DBE certification.

II. Merit Rating Board

A. Background

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 set premiums for motor vehicle insurance.¹⁰ Located within the Registry of Motor Vehicles (RMV), 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 state’s Commissioner of Insurance and the Attorney General (or her designee) – oversees the MRB.¹¹ The Board appoints a director to manage 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 regarding 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.

By statute, the Merit Rating Board’s mandated functions are compiling, gathering and sending information, operator records and driving histories to implement and operate the Safe Driver Insurance Plan. This includes maintaining and updating driving records by gathering motor vehicle accidents and claims, as well as motor vehicle violations.

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.

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.

¹⁰ The SDIP establishes penalties for surchargeable events, such as traffic violations, as well as credits for having a safe driving record. It is a points-based system that lowers insurance rates for good drivers and increases rates for unsafe drivers.

¹¹ 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.”

B. The ISAU's Review

During 2019 and 2020, the ISAU's review focused on the MRB's mandate and day-to-day operations. The ISAU's objectives were to better understand the MRB's role within the RMV and to evaluate whether the MRB fulfills its statutory obligations. The ISAU reported its findings, as well as the MRB's efforts to implement the ISAU's recommendations, in the [ISAU's 2020 Annual Report](#).¹²

In 2021, the ISAU focused on the MRB's spending to determine whether the MRB expends funds in accordance with its statutory mandate and pays for costs only related to operating the MRB. Appropriate spending is vital because the MRB is funded through a separate appropriation that can only be used to support the MRB's statutory mandate and operations. The ISAU's review included analyses of the MRB's staffing, expenditures and information technology (IT) usage. Throughout the review, the ISAU met with individuals from the MRB, RMV and MassDOT, including individuals from MassDOT's budget and IT departments.

The MRB's spending can be divided into two major components: (1) direct spending, such as for staff salaries and office expenses; and (2) an annual allocation for MassDOT IT needs. Historically, the MRB has retained approximately half of its budget for direct expenses, and MassDOT has used the other half towards its IT budget. The ISAU reviewed both components.

To evaluate the MRB's direct spending, which MRB staff control, the ISAU reviewed the MRB's expenditures in fiscal year 2018 and determined that the MRB used its portion of funds appropriately. The ISAU chose fiscal year 2018 because it was the last full fiscal year before the fatal accident that led to the ISAU's review.

To evaluate the second component – spending to support MassDOT's IT expenses – the ISAU reviewed expenses from fiscal year 2015 through the second quarter of fiscal year 2020. The ISAU could not confirm that MassDOT used MRB funds solely for the MRB's IT needs and usage. Following the ISAU's review, MassDOT drafted a proposed methodology for calculating the MRB's share of MassDOT's IT expenses. The ISAU is reviewing that methodology.

C. The MRB's Budget

By statute, the MRB receives specific funding from the Legislature every year. The MRB must use those funds for its operations and to fulfill its statutory mandates. More specifically, the state's Division of Insurance issues assessments to companies that sell motor vehicle insurance in Massachusetts. Those funds are then

The Legislature appropriates funds for the MRB's budget every year.

Per the appropriation, the MRB's budget must be used to operate the MRB, including to pay for rent, related parking and utility expenses.

¹² The Office's review did 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.

appropriated to the MRB through the state’s annual budget process. In fiscal year 2022, for example, the MRB’s budget was \$11,267,069.

Figure 1 below outlines the annual budget that the Legislature has appropriated to the MRB since 2015.

Fiscal Year	Budget Appropriation from the Legislature
2015	\$9,269,473
2016	\$9,553,119
2017	\$9,695,430
2018	\$9,404,567
2019	\$9,768,209
2020	\$10,168,209
2021	\$10,968,209
2022	\$11,267,069

Figure 1. MRB Budget by Fiscal Year.

As mentioned above, the MRB historically has retained approximately half of its budget for direct expenses, and MassDOT has used the other half towards its IT budget. Figure 2 below shows the portion of the MRB’s fiscal year 2018 budget that the MRB retained for its direct spending and operations, as well as the amount that MassDOT allocated for IT expenses.

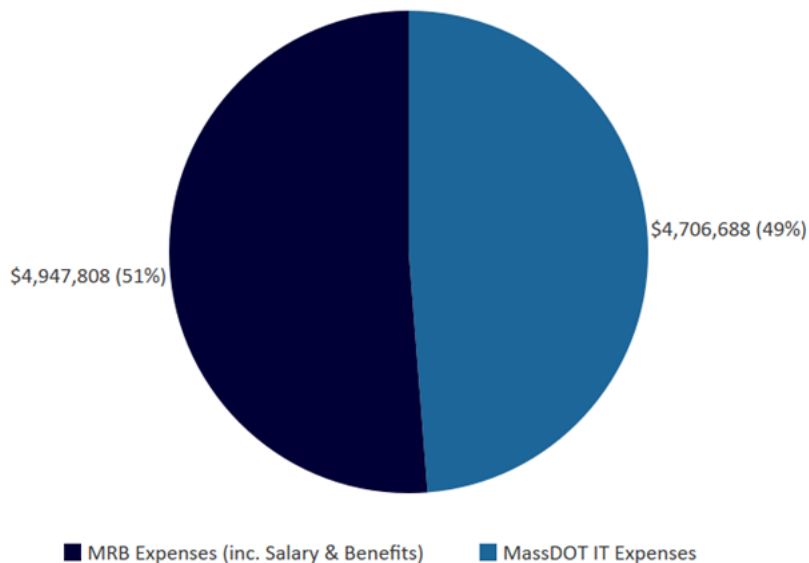


Figure 2. Fiscal Year 2018: Merit Rating Board Budget Distribution.

1. Direct Spending by the MRB

First, to test how the MRB used its portion of its budget allocation, the ISAU reviewed the MRB's spending in fiscal year 2018. The ISAU chose this fiscal year because it was the last full fiscal year before the fatal accident that led to the ISAU's review.

In fiscal year 2018, the MRB retained \$4,947,808 (or 51%) of its budget for direct spending, which MRB staff directly handle and control. Direct spending includes employee salaries, fringe benefits, building rent, utilities and general expenses for office operations. After reviewing approximately 1,000 individual expenses, detailed spending data and related invoices, the ISAU found that the MRB appropriately used its portion of the MRB budget in fiscal year 2018. The ISAU determined that MRB staff used their allocation of the budget for expenses only related to the MRB's statutory obligations and in support of the MRB's operations.

2. MassDOT IT Expenses

MassDOT provides services, like IT, to all its divisions, including to the RMV and MRB. Specifically, MassDOT's IT department manages all the IT needs for MassDOT's approximately 3,600 employees, including the MRB's 53 employees. Among other responsibilities, MassDOT's IT department deploys and supports all MassDOT-owned hardware, software and network systems, and operates a help desk to address employees' IT problems and questions.

MassDOT's IT budget includes costs for employee salaries, hardware and software purchases and leases, technology maintenance charges, internet and utility costs. MassDOT also pays the state's Executive Office of Technology and Security Services (EOTSS) for technology support, such as for networking, email and web services.¹³ The fees that MassDOT pays to EOTSS are referred to as "EOTSS chargebacks."

As a recipient of the MassDOT IT department's services and support, it is reasonable for the MRB to contribute a part of its budget every year to pay for its IT needs. However, MassDOT should only use the MRB's budget for IT expenses directly associated with the MRB's operations. This is important because the MRB is funded through a separate budget line-item with spending limitations designated by statute.

During its review, however, the ISAU found that MassDOT uses approximately half of the MRB's budget for MassDOT IT expenses. In fiscal year 2018, for example, MassDOT allocated almost \$5 million of the MRB's budget to MassDOT's IT expenses. This represented almost half of the MRB's total budget.

¹³ EOTSS is the state's lead executive agency for technology and it supports other executive agencies' technology and networking needs. Notably, EOTSS acts as an IT service provider to state entities, including MassDOT. The Legislature allows EOTSS to "charge" agencies and entities for services to recover its costs. EOTSS charges MassDOT through monthly billings for services such as labor, hardware and software maintenance, computer processing and data usage, and office rent. The billings are referred to as "chargebacks."

The ISAU further found that MassDOT uses MRB funds for IT expenses in two ways. The first is to help pay for EOTSS chargebacks. The second is for direct expenditures, for example, for hardware, software and networking upgrades that the IT department undertakes on behalf of the RMV.

The ISAU reviewed both types of IT expenses; the ISAU’s analyses are explained further below.

a. EOTSS Chargebacks

MassDOT used most of the MRB’s IT allocation for the fees – called “chargebacks” – that EOTSS charges state agencies for IT services. In fiscal year 2018, for example, the total EOTSS chargeback to MassDOT – including for Highway, Rail and Transit, Aeronautics and the RMV – was \$13.24 million. MassDOT used nearly \$3.9 million of the MRB’s funding towards the EOTSS chargebacks. This represented 30% of the fees that EOTSS charged MassDOT that fiscal year.

Figure 3 below summarizes the MRB’s contribution to MassDOT’s EOTSS chargeback from fiscal year 2010 to fiscal year 2019. Figure 4 below lists all the funding sources that MassDOT used to pay for the EOTSS chargeback in fiscal year 2018.

Fiscal Year	Total EOTSS Chargeback to MassDOT	The MRB’s Contribution to the EOTSS Chargeback
2010	\$7,623,096	\$1,528,461
2011	\$8,002,741	\$2,357,845
2012	\$8,578,799	\$1,605,932
2013	\$9,414,994	\$3,216,607
2014	\$8,386,369	\$3,228,000
2015	\$14,751,471	\$2,833,000
2016	\$11,274,373	\$2,978,336
2017	\$14,127,105	\$3,813,280
2018	\$13,240,244	\$3,898,435
2019	\$14,084,020	\$4,166,015

Figure 3. MRB’s Contribution to MassDOT’s EOTSS Chargeback.

Funding Source MassDOT Used	Dollar Amount Used	Percentage of Total EOTSS Chargeback
Main MassDOT Budget	\$5,100,158.60	38.52%
MRB Operating Account	\$3,898,435.09	29.44%
Capital Debt for ATLAS	\$2,102,681.94	15.88%
Toll Funding, Western Turnpike	\$1,042,958.05	7.88%
Toll Funding, Metro Highway System	\$1,042,959.82	7.88%
Capital Debt for IT	\$53,050.00	0.40%
TOTAL EOTSS CHARGEBACK	\$13,240,243.50	100%

Figure 4. MassDOT’s Allocation of EOTSS Chargeback (Fiscal Year 2018).

The MRB’s use of technology and data does not appear to support the historic allocation for the EOTSS chargeback. For example, the ISAU found that on an average day, the MRB accounted for only 5% of the usage and log-in activity on ATLAS, the system that the MRB uses to create and maintain driving records. Nor does staff size account for the allocation: at the time of the ISAU’s review, MRB staff accounted for only 8% of RMV employees and 1.4% of all MassDOT employees.

MassDOT reported that historically it did not have a defined methodology for calculating the MRB’s allocation in relation to the MRB’s use of IT services. MassDOT recognized that because of the MRB’s statutory mandate and specific budget appropriation, it needed to reevaluate its methodology. Following the ISAU’s review, MassDOT drafted a proposed methodology for calculating the MRB’s share of MassDOT’s IT chargebacks from EOTSS. The ISAU is reviewing that methodology.

b. IT Expenses Related to the RMV

MassDOT’s divisions, such as the RMV, work with MassDOT’s IT department for IT-related purchases, such as contracts for necessary IT services. The ISAU found that MassDOT used MRB funds for internet and telephone contracts for RMV branch services. Although RMV branches use the driving records that the MRB creates and maintains, the RMV branches do not actively fulfill any of the MRB’s statutory obligations or duties. Therefore, MassDOT used MRB funds to pay for RMV expenses that were outside of the MRB’s statutory mandate. The ISAU identified \$560,862 of such expenses in fiscal year 2018.

3. Recommendations

In 2021, the ISAU presented its budget findings to the MRB’s Board. The Office recommended that MassDOT create a methodology that reflects the MRB’s actual IT usage. The ISAU also recommended that MassDOT not use MRB funds for RMV branches’ IT needs.

Since that time, MassDOT has developed a new methodology for calculating the amount to charge the MRB for the EOTSS chargeback. The methodology is primarily based on technology and system usage by MRB staff and insurance companies that access the SDIP program and other driving records that MRB maintains. The ISAU is evaluating MassDOT's new methodology; this review will continue in 2022.

The leadership and staff at the MRB, RMV and MassDOT have been collaborative and receptive to the ISAU's findings and recommendations.

III. Office of Real Estate and Asset Development

MassDOT owns property throughout the state and generates revenue by leasing some of its property to private companies. Among other responsibilities, MassDOT's Office of Real Estate and Asset Development (OREAD) develops and manages MassDOT's portfolio of leases and license agreements.

In 2021, the ISAU reviewed leases that MassDOT has with three companies. The ISAU found that the first company, which leases a parking lot from MassDOT, did not pay rent in May 2020 and June 2020, and between September 2020 and February 2021. Due to the adverse economic impacts of the COVID-19 pandemic, MassDOT issued rent abatements to certain businesses on a case-by-case basis. Based on discussions that ISAU staff had with OREAD staff, the company likely would have qualified for such an abatement if it had applied.

In June 2021, the ISAU issued a letter requesting that MassDOT review its contract with the parking company and apply appropriate adjustments, such as annual increases, late fees and interest fees, to determine the balance that the company owes to MassDOT. The ISAU continues to monitor OREAD's efforts to recover the amount owed, including reviewing abatements, deferrals and repayment plans.

The ISAU reviewed two additional companies that lease MassDOT property and identified potential underpayments by both companies. MassDOT's contract with each company includes audit provisions that allow MassDOT to initiate an audit of the company's payments to MassDOT. The audit may be at the company's expense if the auditor finds underpayments. After the ISAU identified the potential underpayments, MassDOT engaged an outside auditor to review both companies. The audits are currently underway.

IV. Massachusetts Bay Transportation Authority

A. Transit Police Department

Members of the ISAU team worked in collaboration with the Office's Audit, Oversight and Investigations Division (AOI), the MBTA Transit Police Department and Suffolk County District Attorney's Office to investigate allegations of time theft by three former MBTA police officers. Following the investigation, all three officers were charged with larceny. Two of the former officers have been placed on pre-trial probation and have paid approximately \$12,000 in restitution to the MBTA in connection with receiving pay they did not earn. The third officer's case is still pending.

In July 2021, Kenneth Berg, a former police lieutenant, was charged in Boston Municipal Court (BMC) with larceny over \$250 in connection with receiving \$8,460.97 in pay for hours he had not worked. Evidence gathered during the investigation revealed that between June 23, 2014, and June 16, 2015, Berg did not work portions of 26 regular shifts and 39 overtime shifts, despite claiming to have worked those entire shifts. On December 22, 2021, a BMC judge ordered Berg to repay the MBTA \$8,460.97 and to serve three months of pre-trial probation.

Also in July 2021, Jason Morris, a former police sergeant, was charged with larceny over \$250 in connection with receiving \$4,354.55 in pay for hours he never worked. Evidence revealed that between October 2, 2015, and December 24, 2015, Morris did not work portions of 16 regular shifts and 16 overtime shifts, despite claiming that he had worked those entire shifts. On December 10, 2021, a BMC judge ordered Morris to repay the MBTA \$4,354.55 and placed him on three months of pre-trial probation.

Former MBTA Transit Police Sergeant Michael Adamson was also charged with larceny for allegedly collecting pay for hours he did not work. Adamson's case is still pending.

All defendants are presumed innocent until proven guilty.

B. Transit Police Retirement Plan

The ISAU collaborated with the AOI to examine payments that the MBTA Police Association Retirement Plan (Retirement Plan) made to several retirees between 2005 and 2018. The Retirement Plan administers the pension benefits for staff who retire from the MBTA Transit Police Department. It is primarily funded by contributions from the MBTA. Between 2014 and 2019, for example, the MBTA contributed approximately \$15.9 million to the fund.

The joint review found that during this time, the Retirement Plain overpaid 24 retirees more than \$470,000. The Retirement Plan made these overpayments because it had poor internal controls and it had no system in place to terminate payments when retirees were no longer eligible for the benefits. In May 2021, the Office issued a [letter](#) to the Retirement Plan's board of directors outlining its findings.

The Retirement Plan has three retirement options based on the member's age at retirement and years of service with the MBTA Transit Police Department: a "normal retirement," an "early normal retirement," and a "reduced early retirement."

Normal retirement. Members who are at least 65 years old with at least 10 years of service.

Early normal retirement. Members hired before December 4, 2018, are eligible for an early normal retirement when they reach age 52 and have 23 years of service. Members hired on or after December 4, 2018, are eligible when they are 55 years old and have 25 years of service.

Reduced early retirement. Members hired before December 4, 2018, may receive a reduced early retirement benefit when they reach age 50 and complete 20 years of service. Members hired on or after December 4, 2018, are eligible at age 55 with 20 years of service.

In addition to the retirement options, members who choose an early normal retirement may receive supplemental retirement benefits until the age of 62. This benefit supplements the member's income until they are eligible for Social Security benefits. There is also a disability retirement benefit for members who were incapacitated and unable to physically perform their work. This benefit is for members who have not reached their normal retirement age; it expires at the age of 52, when the retiree becomes eligible for an early normal retirement.

The Retirement Plan's board of directors hired its current executive director, Janet Rivard, in 2017. Upon hire, Ms. Rivard learned of one benefit overpayment and expanded her review to all supplemental and disability benefit payments between 1997 and 2018. She identified the additional supplemental and disability benefit overpayments discussed above. The Office independently conducted its own calculations of supplemental and disability retirement benefit payments to retirees and agreed with Ms. Rivard's findings. Those findings are detailed below.

Between 2005 and 2017, the Retirement Plan overpaid more than \$241,000 in supplemental retirement benefits to retirees who were older than 62. Supplemental retirement benefits should cease when the retiree turns 62. Figure 5 details the benefit overpayments for each retiree.

Retiree	Supplemental Benefit Overpayment	Retiree	Supplemental Benefit Overpayment
Retiree 1	\$58,100	Retiree 11	\$5,600
Retiree 2	\$39,200	Retiree 12	\$5,600
Retiree 3	\$31,576	Retiree 13	\$4,200
Retiree 4	\$16,800	Retiree 14	\$4,200
Retiree 5	\$16,100	Retiree 15	\$3,500
Retiree 6	\$14,000	Retiree 16	\$3,200
Retiree 7	\$12,600	Retiree 17	\$1,400
Retiree 8	\$11,000	Retiree 18	\$700
Retiree 9	\$6,300	Retiree 19	\$700
Retiree 10	\$6,300	Retiree 20	\$700
		Total	\$241,776

Figure 5. Overpayment of Supplemental Retirement Benefits Between 2005 and 2017.

Between 2005 and 2018, the Retirement Plan also overpaid more than \$228,000 in disability retirement benefits to retirees who were older than 52. Disability retirement benefits should cease when the retiree turns 52. Figure 6 details the benefit overpayments for each retiree.

Retiree	Disability Benefit Overpayment
Retiree 21	\$77,620.66
Retiree 22	\$74,951.96
Retiree 23	\$61,217.28
Retiree 24	\$14,651.14
Total	\$228,441.04

Figure 6. Overpayment of Disability Retirement Benefits Between 2005 and 2018.

The Retirement Plan overpaid these benefits for three different reasons. In two instances, the previous executive director did not factor in social security disability benefits when he should have. The previous executive director did not convert one retiree's disability retirement benefit to an early normal retirement. Finally, one retiree had not obtained spousal consent when selecting a payment option with reduced survivor benefits.

After Ms. Rivard's review, the Retirement Plan contacted each retiree who received overpayments to establish a plan to pay back the overpaid benefits. Some retirees fully repaid the Retirement Plan, while others are repaying through monthly deductions to their benefit payments.

The Office found that, under the previous executive director, the Retirement Plan did not have an adequate system or controls to track and discontinue supplemental and disability benefit payments at the appropriate time. Ms. Rivard worked with the Retirement Plan's banking vendor to establish controls to automatically end supplemental retirement and disability benefits when retirees reach age 62 or 52, respectively.

To help curtail future overpayments, the Retirement Plan also instructed its banking institution to implement a different pay code for supplemental benefit payments to separate them from normal retirement benefits. In addition, the bank now provides a monthly report detailing all supplemental benefit payments, and it added conversion dates to automatically end supplemental benefits to retirees who reach age 62. To halt disability benefit overpayments, the vendor now automatically transfers retirees' benefits from disability to normal retirement at the appropriate time. The executive director will also check with the Social Security Administration annually to ensure retirees with a disability benefit receive the correct amount.

Following its review, the Office recommended that the Retirement Plan's board of directors take a training on the fiduciary duties and responsibilities of public boards and commissions. The Office provided this training to the board of directors in January 2022. The Office also recommended that the Retirement Plan document its internal controls in writing and employ a more robust annual audit.

Finally, the ISAU recommends that the Retirement Plan evaluate the payment of supplemental retirement benefits to those who choose an early retirement. Funded with public money, the Plan should consider whether the benefit, which is not available to other state employees, is fiscally sound and appropriate.

C. 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).¹⁴ 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 that regular

¹⁴ M.G.L. c. 7, §§ 52-55.

employees of an agency provide.¹⁵ 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.¹⁶ 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.¹⁷ The 2015 law requires the Office to review all contracts that the MBTA entered 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.

Between 2015 and 2018, the MBTA privatized seven services in accordance with the exemption.¹⁸ All of the contracts are still active; that is, none have been completed. To date, the MBTA has exercised all available renewal option years for four of the seven contracts. The MBTA subsequently amended three of these four contracts to extend them further. Therefore, the Office's mandate to review the contracts has not yet begun for any of the contracts.

Figure 7 outlines the seven privatized services, the original contract period and the current status of the contracts. *See Appendix 1*, which describes the services each vendor is providing.

¹⁵ M.G.L. c. 7, § 53.

¹⁶ As part of this process, for example, the State Auditor must review all agency requests to privatize services.

¹⁷ Section 196 of Chapter 46 of the Acts of 2015.

¹⁸ Although the MBTA outsourced seven services in accordance with the exemption, the MBTA entered into eight contracts in total. The vendor and the MBTA terminated the first contract for a customer service call center and the MBTA conducted a new procurement for a new vendor.

Contract	Original Contract Period	Renewal Options and Amendments	Current End Date
Third-Party Administrator	5/13/2016-5/12/2019	<ul style="list-style-type: none"> • 1 Renewal Option (1 Year) Exercised • 5 Amendments to Extend 	Month-to-Month
Customer Service Agents Program	7/31/2017-7/30/2018	<ul style="list-style-type: none"> • 3 Renewal Options (1 Year Each) Exercised • 1 Amendment to Extend 	7/30/2022
Police Dispatch	9/25/2017-9/14/2020	<ul style="list-style-type: none"> • 2 Renewal Options (1 Year Each) Exercised 	9/14/2022
Cash Collection and Processing	10/26/2016-10/25/2018	<ul style="list-style-type: none"> • 3 Renewal Options (1 Year Each) Exercised • 1 Amendment to Extend 	10/25/2022
Customer Service Call Center	6/1/2018-5/31/2021	<ul style="list-style-type: none"> • 1 Renewal Option (1 Year) Exercised 	5/31/2022
Warehouse and Logistics	2/1/2017-1/31/2022	<ul style="list-style-type: none"> • 1 Renewal Option (2 Years) Exercised 	1/31/2024
Automated Fare Collection	3/20/2018-3/19/2031	<ul style="list-style-type: none"> • In Original Contract Period 	3/19/2031

Figure 7. Status of MBTA Privatization Contracts.

The MBTA reports that it will conduct new procurements for the customer service agents’ program and police dispatch before July 2022 and September 2022, respectively. Additionally, the MBTA plans to exercise the second renewal option for its customer service call center, thereby extending the contract to May 31, 2023.

V. Other Reviews and Referrals

As discussed more below, the ISAU operates several hotlines, where individuals may 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 that the complaint

warrants further investigation, the ISAU may report the matter to the appropriate MassDOT or MBTA division for further investigation and corrective action.

During 2021, the ISAU reported 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:

- Train idling: The ISAU received multiple inquiries regarding trains that idle at or near trolley, subway and commuter rail stations. The ISAU reviewed the claims and reported them to MBTA Transit Operations.
- Rail grant: The ISAU reviewed a complaint alleging that a grant application submitted for MassDOT's Industrial Rail Access Program contained inadequate information. The ISAU referred the matter to MassDOT's Office of General Counsel.
- Highway equipment misuse: The ISAU reviewed allegations that a MassDOT employee inappropriately used snow plowing equipment for personal use, including to plow their own street and driveway. After a preliminary review, the ISAU reported the matter to MassDOT, which took disciplinary action.
- MBTA station access: The ISAU handled an inquiry related to pedestrian access at a commuter rail station. In particular, the ISAU reviewed whether a restaurant located next to the station encroached on MBTA property, blocking a pedestrian walkway to the station. The ISAU met with MBTA real estate staff and the restaurant's management to clarify the restaurant's access rights to the area.
- Public-use airport planning: The ISAU received allegations that a local airport commission misreported airport activity levels to MassDOT and the Federal Aviation Administration. The complaint also alleged that the airport commission did not hold public meetings or maintain meeting minutes. After meeting with the complainant and the MassDOT Aeronautics Administrator, the ISAU referred the inquiry to the Aeronautics Division.

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 2021, 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 trainings in 2021.

In February 2021, the ISAU provided fraud prevention training to the MBTA's Procurement and Logistics Department. The training examined common fraud schemes, fraud prevention techniques and red flags for vendor fraud.

In April 2021, the ISAU provided specialized training to individuals from MassDOT Highway and the Office of General Counsel regarding the oversight for bridge-maintenance contracts, with a focus on evaluating contract terms, vendor submittals and invoices.

Also in 2021, the ISAU developed and taught a class on project management for municipal construction projects, for the Office's certification and training program. Using case studies from the ISAU's review of town roadway projects, the class focused on contract administration, common construction fraud schemes and the process for false claims recoveries. The ISAU presented this training in collaboration with MassDOT's Community Grants Program, which highlighted eligible projects, how to apply for a community grant, and MassDOT's involvement in administering Chapter 90 funding for municipalities.

II. RMV Disability Placard Abuse Task Force

In 2021, the ISAU also continued to participate in the RMV's Disability Placard Abuse Task Force, which is dedicated to addressing and resolving issues surrounding placard abuse, increasing enforcement of the current laws, and tightening administrative controls to prevent and detect abuse more easily. In 2021, the task force met to discuss ongoing education and outreach, local enforcement trends, and recommendations and goals for the task force moving forward.

III. Hotlines

The ISAU maintains a hotline for members of the public to confidentially report suspected fraud, waste or abuse in the expenditure of MassDOT funds; the hotline is available on the Office's, MassDOT's and the MBTA's websites. Individuals may report suspected fraud, waste and abuse via [email](#), telephone, mail or online [form](#). The ISAU also maintains employee hotlines on MassDOT's and the MBTA's intranets where employees can report wrongdoing or misuse of MassDOT funds.

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.

Furthermore, 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. Finally, the ISAU’s hotline also serves as the state’s disability parking placard abuse hotline, receiving complaints regarding suspected placard abuse. The ISAU provides these complaints to the RMV’s Medical Affairs Bureau, which processes and investigates them.

During 2021, the ISAU received 257 complaints. Nearly half of the ISAU hotline complaints related to disability parking or placards. The ISAU received 81 reports of alleged placard abuse and 38 general inquiries regarding disability parking or placards. The remaining complaints related to topics such as employee misconduct, time fraud, vendor fraud, train idling, safety issues and late subway trains.

Figure 8 details the sources of the hotline complaints and Figure 9 outlines the ISAU’s action by receipt method.

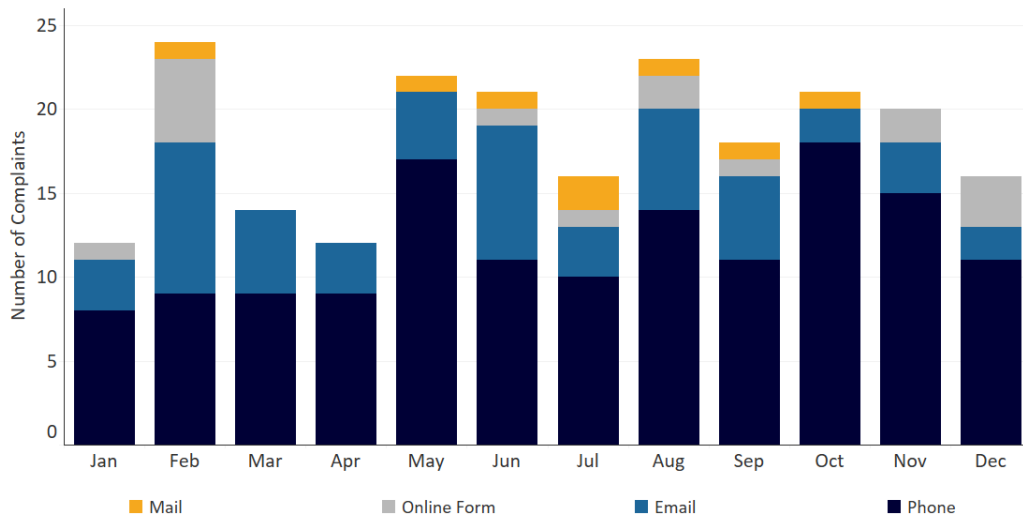


Figure 8. Intake Source by Month.

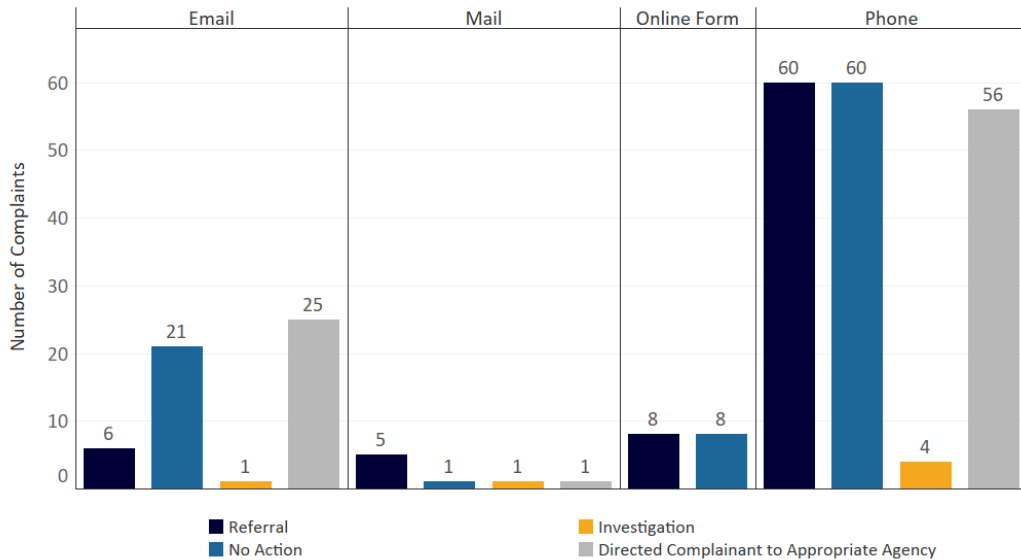


Figure 9. ISAU Actions on Complaints Received in 2021.

In Figure 9, “Referral” means the ISAU preliminarily reviewed the complaint, determined the complaint warranted further review and referred it to the appropriate agency, usually MassDOT or the MBTA. Referrals also includes placard abuse complaints that the ISAU referred to the RMV’s Medical Affairs Bureau for handling. “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.

“No Action” means that the ISAU was unable to pursue an investigation, refer the matter to the appropriate agency or provide the complainant with an appropriate contact for their complaint. Most often, the complainant did not provide contact information or return a voicemail when the ISAU needed more information. No Action also includes instances in which the complainant had already contacted the appropriate agency. Finally, complaints about out-of-state placards fall under No Action.

APPENDIX I: MBTA PRIVATIZATION CONTRACTS

Contract	Vendor	Description of Services
Third-Party Administrator	UPMC WorkPartners	Helps manage employee absences and leaves; includes a call center for employees to report absences and leaves.
Cash Collection and Processing	Brink's, Inc.	Administers cash-collection activities to support the MBTA's revenue management. Includes collecting, counting, transporting and depositing money received at MBTA stations.
Warehouse and Logistics	Mancon, LLC	Manages the MBTA's central warehousing functions, including storing, controlling and maintaining inventory at a central warehouse, as well as at MBTA repair and maintenance locations. Also includes tracking and delivering bus and rail parts to MBTA facilities.
Customer Service Agents Program	Mydatt Services Inc., d/b/a Block by Block	Provides and manages "transit ambassadors" throughout the MBTA's rail system to provide customer support and assistance to passengers.
Police Dispatch	IXP Corporation	Operates the MBTA's transit police dispatch center.
Automated Fare Collection	Cubic – John Laing	Contract to design, deliver and implement a new automated fare collections system.
Customer Service Call Center	Exela Technologies	Operates the MBTA's customer service call center for MBTA riders.