



Office of the
Inspector General
Commonwealth of Massachusetts

Gregory W. Sullivan
Inspector General

2006 Annual Report

July 2007



The Commonwealth of Massachusetts
Office of the Inspector General

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His Excellency the Governor

The Honorable President of the Senate

The Honorable Speaker of the House of Representatives

The Honorable Chair of the Senate Ways and Means Committee

The Honorable Chair of the House Ways and Means Committee

The Directors of the Legislative Post Audit and Oversight Bureaus

The Office of the Inspector General is dedicated to preventing and detecting waste, fraud and abuse in the expenditure of public funds. To that end we responded to scores of complaints, initiated dozens of investigations and trained hundreds of government employees last year.

Much of our work is confidential, but this report details completed projects that we can make public.

Among the highlights for 2006:

- highlighted abuse and apparent fraud in M.G.L. c. 40B developments, with more than \$1.8 million owed to affordable housing funds;
- identified \$1.9 million in secret fees charged to the Middlesex Retirement System, of which they recovered \$1 million from a brokerage firm;
- uncovered pension fund abuse by retired Brockton police lieutenant Charles B. Lincoln, resulting in his indictment in federal court; and
- continued our oversight of the Central Artery/Tunnel project.

Additional copies are available on our website www.mass.gov/ig or from our Office.

Sincerely,

A handwritten signature in cursive script that reads "Gregory W. Sullivan".

Gregory W. Sullivan
Inspector General

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Introduction

The Massachusetts Office of the Inspector General is the oldest state-level inspector general in the nation.

It was established in 1981 on the recommendation of the Special Commission on State and County Buildings, a legislative commission that spent two years probing corruption in the construction of public buildings in Massachusetts.

The commission, nicknamed the Ward Commission in honor of its chairman John William Ward, produced a 12-volume report documenting massive fraud and waste and detailing legislative recommendations for reform.

“Corruption is a way of life in the Commonwealth of Massachusetts,” Ward, who resigned his post as president of Amherst College to devote all his energies to investigating public corruption, wrote in his fiery introduction to the commission’s final report. “It was not a matter of a few crooks, some bad apples which spoiled the lot. The pattern is too broad and pervasive for that easy excuse.”

Part of the Ward Commission’s solution was to create an independent Office of the Inspector General. The commission also recommended creating a new Office of Campaign and Political Finance and an Ethics Commission.

“The basic concept behind the Office of the Inspector General is that any institution, a corporation, a university, let alone the institution of government, must build into itself a mechanism for self-criticism and self-correction,” Ward continued. “To prevent and detect (and the emphasis falls as much upon prevention as detection) fraud and waste in the procurement of many millions of dollars of goods and services by the Commonwealth, the Commission designed the Office of the Inspector General to be a neutral, impartial and independent office to fulfill that critical function.”

The Massachusetts Inspector General has a broad mandate under Massachusetts General Laws (M.G.L.) Chapter 12A to prevent and detect fraud, waste and abuse in government. M.G.L. c. 12A gives the Inspector General the power to subpoena records and people for investigations and management reviews, and to investigate both criminal and non-criminal violations of law.

The Inspector General employs a staff of experienced specialists, including investigators, lawyers, a certified public accountant, an architect, computer experts and analysts to investigate waste, fraud and abuse of

public resources. In addition, the Inspector General's office also has attorneys specializing in procurement to assist local governments with best value contracting under the Uniform Procurement Act, M.G.L. c. 30B. The Inspector General also certifies public procurement officials through the Massachusetts Certified Public Purchasing Official training program, which has reached its 10-year anniversary.

Inspector General Gregory W. Sullivan meets quarterly with the eight-member Inspector General Council to consult with them about the duties and responsibilities of the Office of the Inspector General. In 2006, the members of the council were: Auditor A. Joseph DeNucci, Attorney General Thomas Reilly, Comptroller Martin J. Benison, Secretary of Public Safety Robert Haas, James T. Morris, Alan MacDonald, Colin Campbell and Christopher J. Scott.

The Inspector General receives numerous complaints alleging fraud, waste or abuse in government. The staff evaluates each complaint to determine whether it falls within our jurisdiction and merits action. Some complaints lead to extensive investigations. The Inspector General closes others almost immediately – after a preliminary inquiry fails to substantiate the allegations.

When the staff completes a project, the Inspector General generally issues a letter or report detailing findings and recommending reforms to prevent future problems. The Inspector General reports information concerning criminal or civil violations of law to the appropriate authorities, including the Massachusetts Attorney General and the U.S. Attorney for the District of Massachusetts.

Investigations

The Inspector General's investigations of criminal and civil violations of law arise from a variety of sources, including complaints, information developed during the course of other reviews and activities, and requests for review and assistance by other investigative agencies such as local and state police and the attorney general. The Inspector General forwards complaints to other agencies if a preliminary investigation reveals that the complaints are outside the Inspector General's jurisdiction or would more appropriately be handled by another agency.

In 2006, the Inspector General reported complaints to and worked with a host of agencies, including: the Federal Bureau of Investigation; the Massachusetts Office of the Attorney General; the Massachusetts State Police; the Massachusetts Department of Housing and Community Development; the Public Employee Retirement Administration Commission; the district attorneys in Bristol County, Essex County, and Plymouth County; the United States Attorney for the District of Massachusetts; the State Ethics Commission; and several local police departments.

M.G.L. c. 12A restricts disclosure of ongoing investigations, cases in which no official disposition has been made and on-going joint investigations that are governed by nondisclosure agreements. Therefore, this report details only a portion of the investigations the Inspector General pursued last year.

Review of Excess Profits for Chapter 40B Developments

Projects built under the program established by M.G.L. c.40B are one of the main generators of affordable housing units in Massachusetts. Under Chapter 40B, a developer may construct a housing project which does not comply with local zoning and land use controls. Typically, a developer will obtain a density bonus from a municipality in return for providing a percentage (usually 20% -25%) of "affordable" homes in the project and for agreeing to limit their profits from the project to an agreed upon percentage (usually 20%) of allowable development costs. At the completion of the project, the developer must submit a cost certification which details the related income and expenses. Any profits in excess of the agreed upon limit are typically required to be remitted to the municipality for future development of affordable housing. In order to test the effectiveness of the cost certification process and to ensure the reasonableness and accuracy of reported developer profits, the Inspector General initiated a comprehensive review of the Chapter 40B cost monitoring process. Ten projects completed by 10 different developers in a diverse cross section of municipalities were selected for review.

Beginning in May 2006, the Inspector General began issuing reports on his office's investigation of the individual projects selected for review. To date, the Inspector General's office has completed reviews and issued reports on six of the ten projects. These projects were located in Acton, Berkley, Leominster, Reading, Wareham and Wakefield. These developments ranged in size from 6 units to 50 units with a total of 159 housing units of which 41 (25.8%) were sold as affordable units. The total net profit for these six projects as reported by the respective developers was \$2,600,000. The average profit percentage reported by the developers was at 7.98% of total development costs and none of the projects generated excess profits (greater than 20%) to be returned to the municipalities.

The Inspector General's review has highlighted a significantly different profit picture. The review identified an average project profit percentage of 29% with a range from 14.4% to 55.9%. Four of the six projects exceeded the 20% excess profit limit and a total of \$3,000,000 should have been remitted by the developers to these four municipalities for additional local affordable housing initiatives.

Abuse of the Chapter 40B process by certain unscrupulous developers is widespread and pervasive. Abuses include the flipping of market rate housing units at below market prices to developer-controlled entities in order to report lower revenues for the project. Expenses are routinely inflated, especially through related party transactions. The effect of the underreported revenues and the excess expenses is to reduce the reported profits owed to the municipalities.

These abuses of the Chapter 40B program proved to be part of a pattern. In September 2006, the Inspector General wrote to the executive director of MassHousing to report: "Based on our review to date, it has become clear to this Office that the cost certification and monitoring process is 'broken'." While all 10 developers reported their profits as well below the 20% profit limit, the Inspector General's review found a number of common accounting fictions, including developer profits that were routinely and substantially understated, costs that were overstated, and units that were "sold" to related parties at a discount. It is apparent that developers across the state knew that the organizations assigned to monitor and enforce the system were failing. As a result, developers were sometimes reaping profit windfalls at the expense of the host communities, which should have received all profits above 20%.

Charles B. Lincoln

In May 2006, the Inspector General reported that Charles B. Lincoln, a former lieutenant with the Brockton Police Department, had manipulated state pension rules in order to receive a pension of more than \$139,000 annually. Mr. Lincoln was granted this pension based

on his having worked two full-time jobs for three years, ending in January 2004. He then sought to combine his two salaries – his lieutenant's salary from Brockton with that he received as director of security for the Plymouth County Sheriff's Office – to use as the base figure to compute his pension entitlement. However, an investigation by the Inspector General's staff found that Mr. Lincoln had used 251 sick days during this three-year period, often calling in sick for one job while reporting to the other job. The investigation involved analyzing hundreds of pages of attendance records, sick leave accrual records, contract documents, retirement policies, and other documents. That analysis also uncovered other manipulations of the system for personal gain, some of which was done with the complicity of superiors.

Following publicity about the Inspector General's report, the U.S. Attorney and the FBI launched an investigation of the Lincoln case, enlisting the participation of the Inspector General's investigators. Mr. Lincoln was indicted in October 2006. The Brockton and Plymouth County retirement systems are also seeking to recover money paid to Mr. Lincoln as well as a reduction in his pension.

Fraudulent Activity at the Middlesex Retirement System

In 2006, the Inspector General wrote several letters to the Public Employee Retirement Administration Commission regarding serious problems at the Middlesex Retirement System, a pension fund for public employees in 31 municipalities and 39 governmental subdivisions in the Commonwealth. PERAC is the regulatory agency for state and local public employee pension funds in Massachusetts.

In January 2006, the Inspector General revealed an undisclosed arrangement that funneled \$1.9 million in commissions to two local men for currency trades made on behalf of the Middlesex Retirement System. The trades were made by a firm called Cambridge Financial Management, which had been hired to buy currency options to insulate Middlesex from swings in currency values. Instead, the firm engaged in an escalating pattern of speculative bets on foreign currencies, resulting in a \$37 million loss to Middlesex. At the same time, Goldman Sachs, one of the firms with which Cambridge Financial traded, secretly paid a fee (added to the pension fund's costs) to Ronald A. Whitham, a friend of Cambridge Financial Management's owner. Mr. Whitham in turn paid half of his fees to Thomas F. Kelly III, a marketing consultant promoting Cambridge Financial Management. Following the Inspector General's disclosure of the secret payments, Middlesex threatened legal action against Goldman Sachs. Middlesex settled the matter for \$1 million.

In April 2006, the Inspector General informed PERAC about a number of fraudulent documents and an apparent bid-rigging scheme in the \$600,000 renovation of the Middlesex Retirement System's offices in

Billerica. The bid-rigging benefited the general contractor, who is friends with two Middlesex board members.

Another serious problem, detailed in an Oct. 23, 2006 letter to PERAC, involved more than \$10,000 in fraudulent expense receipts submitted by Middlesex board member Lawrence P. Driscoll between 2000 and 2004.

Shortly after the Oct. 23, 2006 letter was sent, the Middlesex board was forced to terminate the general contractor (who had been hired on staff), Mr. Driscoll was forced to resign, and the remaining board members voted to transfer nearly all of Middlesex's investment assets – about \$600 million – to the state's Pension Reserves Investment Trust for safekeeping.

Charges Filed Against North Attleborough Electric Department Officials for Misuse of Funds

In October 2006, two officials of the North Attleborough Electric Department were charged with larceny for exchanging taxpayer-financed airplane tickets to a professional conference for flights to the Bahamas, where one of the individuals owned a time-share condominium. The alleged misuse of public resources was detected during a wide-ranging probe into the misuse of \$4 million in Electric Department bond funds on a failed internet business. Former general manager David Sweetland and former communications director Patricia Vandette were arraigned October 13, 2006 on larceny charges.

The investigation into the misuse of bond funds revealed that, in addition to funding the failed internet business, millions of dollars was spent on non-capital expenditures such as credit card bills, legal opinions, advertising, take-out food, restaurant meals, and chocolates. These bonds were authorized for specific improvements to the town's electric light department. In February 2007, Sweetland, one current Electric Department commissioner and two former commissioners were charged with misappropriation of bond funds by the Bristol County District Attorney's office, which had worked with the Inspector General on the investigation. The North Attleborough Police Department also worked on this case. The misapplication of funds will cost the electric ratepayers of the Town of North Attleborough more than \$8 million, costs that include the repayment of bond principal, interest on the bonds, capital write-offs and cumulative business losses.

The investigation revealed that North Attleborough Electric Department auditor Grant Thornton LLP enabled these inappropriate expenditures from the capital bond fund to remain undetected by town officials for years. The lack of reasonable care exercised by Grant Thornton violated generally accepted auditing standards.

The Office of the Inspector General called for appropriate recourse by town officials against Grant Thornton for its negligent auditing of the utility's financial statements during the period when the bond funds were unlawfully expended.

Proposed New Bedford Land Deal Stopped

In April 2006, the Inspector General reported the results of an investigation into a proposed sale of several parcels of city-owned land in New Bedford, known as the Fairhaven Mills parcels. The investigation found that the disposition process was "a sham with a preordained result," noting that the rules were written so that only one bidder could meet the specifications. The Inspector General also wrote that the disposition was artificially categorized as an "emergency" so that the disposition would occur prior to the expiration of options this one bidder had on some adjoining parcels. The report also noted that the proposed sale was for a tiny fraction of the parcel's true market value and would benefit insiders from the prior city administration. Immediately after the Inspector General's report was issued, the city cancelled the transaction.

Investigation Nets \$760 Million in Savings on Saltonstall Project

In February 2002, state and local officials commenced with the \$235-million renovation and rehabilitation of the 22-story Leverett Saltonstall building, relying in part on a \$20-million loan from MassDevelopment, the quasi-public agency managing the project. This office, in an investigation that began in 2004, determined that the MassDevelopment loan was unlike any note commonly used to fund such projects because the interest rate was set at 16 percent (even though the prime lending rate ranged from 4.25 percent to 9.5 percent in the years 2000-2002), and interest was calculated on a compound basis. By the end of the agency's 2006 fiscal year, roughly \$17 million in interest had already accrued on the note, an extraordinary sum given the principal of \$20 million. And at year 25, when MassDevelopment anticipated the Saltonstall project to begin experiencing positive cash flow, roughly \$800 million in interest would have already accrued by the agency's own estimates. That would have all but erased any profits taxpayers would have gotten from the Saltonstall project.

Making matters worse, the Inspector General revealed that MassDevelopment had for years been misstating the basic terms of the note in its audited financial statements, potentially misleading investors and the public at large.

In 2005, the Inspector General, after numerous meetings with MassDevelopment executives, made two strong recommendations to the agency: first, that MassDevelopment calculate the interest on the note on

a simple, and not compound, basis; and second, that they cut the interest rate in half to 8 percent.

At the agency's Dec. 8, 2005, board of directors meeting, MassDevelopment's Chief Executive Officer informed the board of the Inspector General's concerns, and the board agreed to change the interest accrual method from compound to simple, which instantly subtracted roughly \$4 million off the amount of interest that had accrued to date. More importantly, it cut the interest due over the expected life of the note from \$2.35 billion to \$103 million.

And in May of 2006, the MassDevelopment board followed the second recommendation of the Inspector General and halved the interest rate on the promissory note from 16 percent to 8 percent, lopping another roughly \$6 million off the interest amassed to that date.

As a result of these actions, the cumulative interest on the note in June of 2027 will now add up to roughly \$40 million, a savings of 95 percent over what would have been due at that time had this office not intervened.

Continuing Examination of Tax Incentive Program Issues

For several years now, the Office of the Inspector General has been reviewing various state and local programs that offer an array of tax credits to businesses seeking to re-locate or expand their operations within the commonwealth. While these programs represent a vital tool for the continued economic growth of Massachusetts, some communities have worked to secure such incentives for companies that should not have otherwise qualified to receive such handsome tax breaks. Also, some firms have not met the goals set for job creation in the agreements struck with state and local agencies.

In February 2006, the Inspector General informed the Massachusetts Department of Revenue that 55 companies receiving state and local tax breaks under the Tax Increment Financing program had not hired the number of employees promised, based on a review by the IG's staff of the most recent annual reports submitted to the Economic Assistance Coordinating Council. These businesses had received more than \$2.8 million in state tax credits and nearly \$4 million in local tax credits. The Inspector General noted that the Department of Revenue is obligated to review certified Tax Increment Financing projects and can decertify projects that fail to meet projections. The Inspector General said the state should take action against firms in default of their agreements and that the state may be able to recover some of the tax credits from businesses that are not in compliance.

In June 2006, the Inspector General wrote to the Economic Assistance Coordinating Council to inform the agency that the Columbus Center project, a large development of the air rights over the Massachusetts Turnpike in Boston, did not qualify for the Economic Development

Incentive Program. The developer had applied for public subsidies from the Economic Assistance Coordinating Council, despite having stated in hearings that no subsidies would be sought. The Inspector General said the Economic Development Incentive Program is exclusively for projects that cannot be developed through the “ordinary operations of private enterprise,” whereas this project’s feasibility had been extensively analyzed and its scale had been expanded for the explicit purpose of making it economically feasible.

Big Dig Tunnel Ceiling Collapse

In response to a request from the Legislature’s Joint Committee on Transportation, the Inspector General issued an interim report on October 12, 2006 regarding the partial collapse of the Interstate 90 ceiling three months earlier, killing a Boston woman. The report stated that the state, through the Massachusetts Highway Department owned the I-90 connector and was responsible for the safety of the roadway. However, the highway department had contracted out responsibility to maintain the roadway to the Massachusetts Turnpike Authority, which had apparently performed no maintenance or inspections on the I-90 connector ceiling from its installation in 1999 onward. One result of this arrangement was that the Massachusetts Highway Department “abdicated its role as a second set of eyes on this critical piece of infrastructure,” the report stated.

Furthermore, from March 17, 2005 until immediately prior to the July 10, 2006 fatality, the administration claimed – both in the Comprehensive Annual Financial Report and in a series of bond prospectuses – that the Massachusetts Highway Department was conducting “an examination of the safety of the tunnel elements of the CA/T Project that have been opened to traffic,” which included the I-90 connector. That statement, repeated officially several times, was not true. The Massachusetts Highway Department and the Executive Office of Transportation “did not conduct a safety review of all CA/T Project tunnel elements open to traffic, and did not inspect the I-90 connector tunnel,” the report stated. The Securities and Exchange Commission is investigating whether bondholders were deceived by the language in the prospectuses.

Massport’s Procurement of Banking Services

In May 2006, the Office of the Inspector General informed the executive director of the Massachusetts Port Authority that the agency’s procurement of banking services in 2004 had included procedural flaws that had involved an apparent conflict of interest between its banking consultant, Wachovia Treasury and Consulting Services, and the winning proposer, Wachovia Bank. Massport responded by asserting that an appropriate “firewall” has been in place

during the procurement process to prevent any actual conflict of interest.

The Inspector General recommended that Massport adopt several measures to ensure such apparent conflicts and anti-competitive procedures do not re-occur when Massport seeks new bids for banking services and that Massport re-procure the services for the contract term beginning July 2007.

Nine Guilty in Everett School Department Bid-Rigging Uncovered by Inspector General

A joint investigation with the Attorney General's office and the Massachusetts State Police regarding Everett Public Schools officials' procurement practices yielded indictments against 11 people, including the school system's maintenance manager, Lona DeFeo, and the current superintendent, Frederick Foresteire. Nine of the 11 people have been found guilty. Another defendant died before trial. The other individual indicted, Mr. Foresteire, was placed on one year of pre-trial probation in October after a Middlesex Superior Court judge found that there was sufficient evidence to warrant a guilty finding that he had had two air conditioners purchased with school funds installed in his house. The Inspector General uncovered several additional matters involving Mr. Foresteire's improper use of school personnel and supplies to renovate his home.

Investigators at the Inspector General's office developed evidence that Ms. DeFeo and Mr. Foresteire ordered Everett Public Schools employees and outside contractors to perform plumbing, construction, decorating, and landscaping duties at Mr. Foresteire's home between 1998 and 2002. Also, some renovation materials, including plywood and blue board (a type of sheetrock), was bought with school funds but delivered to and installed in Mr. Foresteire's home. In addition, some contractors performed construction work at Mr. Foresteire's house between 2000 and 2002 while receiving no-bid contracts with the school department. These matters were disclosed to Everett's mayor and school committee by letter in December, following the resolution of his criminal case.

Financial Risks of Removing Tolls on the Western Turnpike

Shortly after the Massachusetts Turnpike Authority unveiled plans to remove the tolls from the Turnpike west of the Route 128 interchange, the Inspector General wrote to the chairman of the Turnpike Authority pointing out a number of negative financial, legal, and environmental consequences of the action. In a November 14, 2006 letter, the Inspector General stated that the Massachusetts Turnpike Authority's engineering expert concluded that the lack of tolls on the Western

Turnpike would require significant toll hikes on the Boston Extension and/or the harbor tunnels. The letter also noted that the transfer of the Western Turnpike to the Massachusetts Highway Department “would have an annual cost of \$72 million, a cost borne by every taxpayer in the state regardless of whether they use the Western Turnpike or not.” The November letter and a follow-up letter in December both stated that the Massachusetts Turnpike Authority’s legal ability to transfer the highway to the state was clouded. The transfer plan was contingent on the securitization of lease revenues for the service plazas to help defease the Turnpike’s outstanding bonds. By statute, those lease revenues are devoted to roadway maintenance. The Turnpike’s outside counsel opined that a court could rule that the Turnpike is not entitled to use those revenues for bond defeasance, thereby knocking one of the financial legs out from under the toll removal plan.

The December letter also highlighted several other factors that were not addressed by the toll removal plan. For instance, by statute, the transfer of the Western Turnpike cannot take place unless and until “the turnpike is deemed to be in good condition and repair to the satisfaction of the highway department.” A thorough inspection of the entire Western Turnpike along with repairs to any deficiencies is required before any transfer. Furthermore, well grounded and fully disclosed plans for handling the financial shortfalls in the funds for maintaining the highway must be developed prior to moving ahead with the toll removal and transfer, the Inspector General said. Early this year, the Turnpike Authority halted efforts to rush through an early transfer of the Western Turnpike.

Chatham Moorings Improperly Controlled by Boatyards and Subject to Abuse

In June 2006, the Inspector General launched an investigation into the assignment and control of mooring spaces in town waters by private boatyards. The inquiry followed similar probes in Harwich, Boston, and Quincy where private firms were given control of municipally owned moorings and were in turn leasing them to favored customers. State law requires that the local harbormaster control and assign boat moorings in public waters.

In Chatham, the investigators found that private boatyards control 312 moorings in town waters, about eight to ten percent of all Chatham moorings. The town’s waiting list for moorings has about 1,300 people on it, with an average wait of eight to ten years. However, an investigator working in an undercover capacity posing as a prospective boat buyer was told by one of the private boatyard managers that if he purchased a boat, he would receive favorable treatment and get a mooring very quickly. A similar result was found when an investigator, again posing as a prospective boat buyer, spoke with the manager of a

second private boatyard, which controls dozens of moorings. The Inspector General recommended that the town of Chatham, through its harbormaster, “assert control over all new and vacant mooring spaces” controlled by private entities to ensure the availability of these public assets on a fair and equal basis as required by law. In spring 2007, Chatham’s Board of Selectmen voted to require private boatyards to post waiting lists with the harbormaster. The selectmen also set up a process in which complaints against boatyard owners are directed to the harbormaster for adjudication.

Lowell Towing Investigation

In April 2006, the Inspector General disclosed the results of an investigation into questionable bidding practices by towing companies on a towing contract for the city of Lowell. The investigation found indications of collusion among the bidders to keep the fee paid per tow to the city artificially low. In late 2004, the city advertised for towing services for vehicles violating city codes, with the city divided up into six geographic towing zones and an alternate. Documents showed that in order to raise extra revenue, the city asked bidders to specify an amount to be paid to the city for each tow with the most lucrative zone going to the firm offering the highest payment to the city. Six of the seven firms selected by the city offered \$1.01, \$1.03, \$1.07, \$1.07, \$1.10, and \$1.50. The seventh offered \$22.00. When interviewed, only the firm offering \$22.00 per tow had a plausible explanation for his bid. The others claimed to have either picked it out of the air or, in one case, said he used his date of birth. (This individual’s date of birth does not resemble the amount bid.) One bidder admitted talking about the amount to bid to another applicant, who reportedly told him to stay under \$5.00 per tow. All of the other bidders denied speaking with other applicants about the amount to be offered to the city. In his letter to Lowell’s city manager, the Inspector General noted that the bidder who offered the most was not awarded the most lucrative geographic zone, contrary to the rules set by the city and contrary to the city’s financial interests. Instead, the most lucrative zone was awarded to a towing firm run by the chairman of the Zoning Board of Appeals. The Inspector General recommended terminating the existing contract, clearly informing bidders for future contracts that collusion is a crime, and abiding by the rule that the bidder offering the highest amount receive the most lucrative zone.

In December, the towing contract was put out to bid again, with dramatically different results. The winning bidders offered to pay the city between \$20.68 and \$26.75 per tow. The city manager expects the new contract to generate up to \$210,000 per year in revenue – triple the amount earned in 2006.

Social Law Library Review

Beginning in 2006, the Inspector General and State Auditor A. Joseph DeNucci engaged in a joint review of the project to renovate the John Adams Courthouse in Pemberton Square. That review included scrutiny of the state's financial and legal relationship with the Social Law Library, which occupies more than 80,000 square feet in the newly renovated courthouse. This review determined that the Social Law Library receives an annual appropriation of \$1.5 million or more from the legislature plus free space, utilities, insurance, and security. Nevertheless, the Social Law Library has been charging state agencies and trial courts for access to administrative law databases. The Social Law Library had also pooled legislative appropriations with privately raised funds, which was then used to lobby the legislature for more money. When these issues were brought to the attention of the Social Law Library's executive director, corrective actions were taken, including granting free access by state agencies to the administrative law databases.

West Brookfield Water Department Violations Found

In August 2006, the Inspector General notified the Board of Selectmen of West Brookfield of irregularities in the payroll and operations of the Ware Point Road Greensand Plant, run by the West Brookfield Water Department. West Brookfield's town meeting has authorized water commissioners to work at the plant during emergencies when the superintendent is absent. However, a review by the Inspector General's staff found all three town water commissioners working a regular, non-emergency schedule at the facility. Furthermore, two of the three commissioners are not licensed by the state, a serious violation of Massachusetts regulations. Also, the review found that water commissioners were approving their own time cards, which is a potential conflict of interest as well as inconsistent with proper internal financial controls. The Inspector General recommended several corrective steps and also forwarded information to the State Ethics Commission.

Inquiry Into Massachusetts Turnpike Authority's FastLane Operations Triggers Overhaul

The Inspector General's office initiated a series of inquiries in 2005 regarding the procedures used to prevent abuse of three Massachusetts Turnpike Authority programs: the residential discount program, the carpool program, and the issuance of "toll-free" transponders to certain emergency agencies and Turnpike vendors. Through document requests and meetings in 2005 as well as in a March 2006 letter, MassPike officials assured the Inspector General that audits and controls were in place to

detect violators and minimize abuse, but they provided few details on their results. However, prompted by the Inspector General's continued interest in the issue, Turnpike officials conducted internal program audits to identify cheating and abuse. The audit findings were disclosed to the Massachusetts Turnpike Authority board in late 2006. Following these disclosures, which the Turnpike has not made public to date, Turnpike officials decided in 2007 to end the agency's contract with the vendor running the FastLane program.

Orleans Beach Cottages Not Being Taxed

In response to a complaint alleging that 12 private cottages on Nauset Beach in Orleans were not being assessed property taxes, the Inspector General launched an inquiry in June 2006. The results of that investigation were made public in a letter to Orleans selectmen in August. The letter states that there are 12 cottages on Nauset Beach, none of which are being taxed. Interviews and a title search found that the land on which the cottages sit was taken by eminent domain in the late 1950s. The structures, called "camps" in the order of taking, were not taken but the owners were permitted a period of months to remove them. However, a 1959 document purported to reserve for the owners of five of the camps the right to use the structures for their lifetimes. The Inspector General recommended that the town take possession of the camps as soon as possible and, if any individual retains any rights to the property, steps should be taken to collect taxes on the private property. In the fall of 2006, town officials began taking steps in line with the Inspector General's recommendations.

Effective and Ethical Contracting

Ludlow

In February 2006, the Office of the Inspector General informed officials at the Ludlow school department regarding contracts for copiers that were signed in violation of M.G.L. c.30B, the state's public procurement law. The letter stated that Ludlow had signed two contracts totaling more than \$24,000 with H. L. Dempsey Co., Inc. for the lease of two Canon copiers. The firm was not authorized under the state Operational Services Division's statewide contract to sell Canon photocopier equipment. The letter warned Ludlow officials that the contracts with H. L. Dempsey Co., Inc. might be invalid and that officials should not rely on vendors' claims when purchasing from OSD's statewide contracting lists. In a related matter, the Inspector General wrote to officials at the West Springfield school department, who had run into similar issues with the same vendor several months earlier. The Inspector General said West Springfield officials had taken steps to ensure compliance with M.G.L. c.30B on copier contracts.

Webster

In 2006, in response to complaints, the Inspector General's office reviewed contracting practices in the town of Webster. The Inspector General first wrote to the town administrator in Webster in June, noting that the town was using a contract for design services that was awarded in 1994 and is completely open-ended. The contract with Camp Dresser and McKee Inc. offered no special rates or discounts, and provided no competition for the price for services. In short, the town's use of an open-ended contract for design of non-building public works projects was "irresponsible" and did not conform to "sound business practices" as required by town by-laws, the Inspector General stated in his letter to the town administrator. In November, the Inspector General wrote the town administrator regarding another engineering firm employed by the town in apparent violation of state bidding laws. The letter also requests that the new town administrator, set to take office later in the month, investigate these procurement issues and a no-bid roofing project on Webster's town hall. Following these reports, officials in Webster terminated the open-ended design contract. The town now intends to solicit bids for design services on a project by project basis for non-building public works. The town is also going out to bid for engineering services.

Amesbury

In July 2006, the Inspector General's office concluded its review of Amesbury's proposed disposition of about 24 acres of city-owned land, known as Bailey's Pond. The review, requested in 2005 by the Amesbury Municipal Council, found possible violations of municipal finance and procurement laws. For example, Amesbury officials never appraised the value of the property being offered for sale, a requirement of M.G.L. c.30B. The Request for Proposals listed very vague evaluation criteria – and then city officials never evaluated the lone RFP response. That proposal from Fafard Real Estate and Development Corporation did not meet the RFP's goals and should have been rejected, the Inspector General wrote. Instead, city officials chose to negotiate with Fafard, "adding things to the purchase and sale agreement that had not been discussed or referenced in the RFP," the Inspector General's letter to Amesbury's mayor stated. The purchase and sale agreement, signed in November 2003, "reflects poor business judgment" and did not protect the city's interests, the Inspector General wrote. In an unrelated matter, the Inspector General wrote to Amesbury's mayor to point out a number of issues in the city's Inspection Department in need of corrective action.

Operational Services Division

In 2006, in response to a legislative request, the Inspector General's office reviewed the procurement process for the statewide contract for information technology services (ITS23). The results of that review were contained in a June 2006 letter to the state purchasing agent, which criticized the agency for using "subjective and poorly defined evaluation criteria that resulted in an unfair procurement that may not have provided the best value to the commonwealth." The letter noted that OSD awarded evaluation points to prospective vendors who agreed to attend OSD's Statewide Training and Resources (STAR) Exposition. As a result, three vendors who opted not to attend STAR – for which OSD charges a fee – fell short of getting on the statewide contract simply because they did not attend a "voluntary" event. The division's evaluation criteria were vague and subjective, creating a vulnerability to favoritism. The report identified other problems with the evaluation system used by OSD, including a failure to verify information provided by bidders.

Fitchburg

The Inspector General in August 2006 reported on his office's investigation into the removal of fill from a city-owned gravel pit. The investigation found that a private firm had "had unfettered access to the city-owned property for up to two weeks" and the city kept no records regarding how much material was removed. This disposition of

municipal resources was conducted under an oral agreement, without bids or the benefit of any competitive procurement process, and there is no way to gauge the value of the material removed. The Inspector General recommended that all future agreements be put in writing, with safeguards and monitoring procedures established.

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Uncompensated Care Pool Audit

The Office of the Inspector General Uncompensated Care Pool Audit Unit, created by Chapter 240 of the Acts of 2004, and extended by Chapter 45 of the Acts of 2005, and Section 100 of Chapter 139 of the Acts of 2006, is continuing to oversee and examine the practices in all Massachusetts' hospitals including, but not limited to, the care of the uninsured and the resulting free care charges.

The Uncompensated Care Pool Audit Unit has been tracking the expenditures of the Uncompensated Care Pool tied to the migration of pool users into the Commonwealth Connector insurance products for the previously uninsured, created by Chapter 58 of the Acts of 2006. As of December 31, 2006, nearly 100,000 uninsured individuals were newly enrolled in MassHealth or into the Commonwealth Connector subsidized insurance products offered by one of four certified Medicaid managed care organization plans approved to participate in Commonwealth Care.

To follow up the major report published by the Inspector General in November, 2005, "Ongoing Review of the Uncompensated Care Pool Pursuant to Chapter 240 of the Acts of 2004," the Inspector General's Uncompensated Care Pool Audit Unit issued the following report in March, 2006:

"The Virtual Gateway: MassHealth and Uncompensated Care Pool Web-based Data Intake and Eligibility Determination System Review and Evaluation," (March 2006)

This report reviewed the effectiveness and impact of the state's Virtual Gateway web-based system, which was developed to respond to legislative mandates to improve the public's access to and quality of health and human services. The Virtual Gateway system is being utilized by MassHealth to automate the data intake and eligibility determination process for beneficiaries in MassHealth, the Uncompensated Care Pool, the Commonwealth Connector and other public sector health and human services benefit programs. Following extensive review and analysis of data from multiple sources, the Inspector General identified a number of measures to improve the effectiveness and capacity of the Virtual Gateway system. Recommendations centered on increasing the capability of the system to allow providers and consumers to utilize expanded functions which enhance timeliness and accuracy of eligibility and billing information.

One area for ongoing review identified in the above report is the Emergency Bad Debt category of uncompensated care funding. This category currently represents more than 12 percent of pool expenditures and may be the area that exhibits increased utilization now that the eligibility and enrollment for the pool has tightened with the successful implementation of the Virtual Gateway system. The Inspector General's Uncompensated Care Pool Audit Unit has been reviewing data and trends of expenditures from the uncompensated care pool and emergency bad debt categories. A preliminary report is planned to be presented in mid 2007, when enough data are submitted to identify trends in utilization and claims.

Finally, the Inspector General's Uncompensated Care Pool Audit Unit is tracking the development and implementation of the Health Safety Net Office and the Health Safety Net Trust Fund, created by Chapter 58 of the Acts of 2006 to become the successor to the Uncompensated Care Pool. The Health Safety Net Office's tasks include: setting reimbursement rates for hospitals and community health centers; developing a new reimbursement mechanism for these providers modeled on a claims payment system utilizing Medicare reimbursement rates; and conducting a utilization review program, among other duties. This office is scheduled to be operational by October 1, 2007.

Construction Reform

The Inspector General played an integral role in drafting Chapter 193 of the Acts of 2004, "An Act Further Regulating Public Construction in the Commonwealth." The new construction reform law was designed to improve contracting for cities and towns by adding flexibility to the procurement process while increasing local accountability to taxpayers.

The Inspector General's involvement didn't end when the governor signed the law in July of that year. The Inspector General continues to be deeply involved in outreach and education efforts as well as implementation.

Among other things, the Office of the Inspector General has had a hand in drafting technical changes; reviewing prequalification regulations written by the Division of Capital Asset Management; developing regulations and guidelines for contractor and subcontractor certification; and developing a matrix listing the qualifications of an owner's project manager.

The construction reform law also charged the Office of the Inspector General with determining whether a municipality is eligible to use alternative delivery methods, including construction manager at risk and design-build. In the latter half of 2004, the office developed regulations, an application process, and approval criteria for municipalities to help the Inspector General make those decisions.

In 2006, the Inspector General reviewed three construction manager at risk applications submitted to take advantage of the innovations in the state's construction reform law. During this year, the office approved three municipal projects: Worcester's Union Station Parking Garage (March); Newton's new Newton North High School (July); and Quincy's new Quincy Comprehensive High School (December).

The Office of the Inspector General also continued to review, suggest changes and approve construction procedures for exempt agencies, including the Division of Capital Asset Management and Maintenance, the Massachusetts Port Authority, the Massachusetts Highway Department, and the Massachusetts State College Building Authority.

Bringing Discipline to School Building Assistance Funding

In September, the Inspector General issued a letter commending the Massachusetts School Building Authority's efforts to oversee

and supervise the state's school building assistance program. Created in 2004, the Massachusetts School Building Authority inherited the program from the Department of Education, which did a poor job of monitoring expenditures, leading to ballooning costs and an inequitable distribution of resources. The Inspector General urged the Massachusetts School Building Authority to create realistic standards for design and reimbursement, and then enforcing these standards. In his letter, the Inspector General also noted that the Department of Education had left a backlog of more than 800 projects whose audit materials had not been reviewed. The Massachusetts School Building Authority was actively reducing this backlog – and finding payments that should not have been approved, meaning there is the possibility for the state to recover some funds that can be directed to future school construction projects. The Inspector General also commented on the authority's draft regulations related to the hiring of a construction manager as well as the procurement of furniture, fixtures and equipment.

Proposed Changes to State Construction Law

In 2006, the Inspector General proposed a bill addressing several inadequacies and loopholes in the state's horizontal construction laws that were illuminated by the Central Artery project. The bill parallels changes made in vertical construction law (Chapter 149) under the Public Construction Reform Law passed by the Legislature in 2004. The bill, if passed into law, would require the Massachusetts Turnpike Authority, the Massachusetts Highway Department, the Massachusetts Bay Transit Authority and other such agencies to hire an independent "owner's engineer" for projects estimated to cost \$50 million or more. Among the mandated requirements for owner's engineers is that the firm must provide cost recovery services, it must have a minimum of five years of relevant professional experience, and it cannot receive compensation on a "cost-plus" basis.

Real Estate Dealings

The Inspector General reviews a variety of real property transactions each year to ensure that the public interest is adequately protected.

In addition, the Legislature frequently mandates that the Inspector General review and approve independent appraisals of real property interests being conveyed or acquired by the state, counties and municipalities. The Inspector General provides a report on each appraisal to the Commissioner of the Division of Capital Asset Management for submission to the House and Senate Committees on Ways and Means and the Joint Committee on State Administration.

The Inspector General also reviews and comments on the disposition agreements controlling certain conveyances.

The Inspector General requires that all real property appraisal reviews conducted at the direction of the Legislature follow the Uniform Standards of Professional Appraisal Practice published by the Appraisal Standards Board for the Appraisal Foundation.

The Inspector General's appraisal reviewers form an opinion as to whether the analysis, opinions and conclusions in the work under review are appropriate and reasonable. If the reviewer disagrees with an appraisal, the reasons for any disagreement are set forth in the Inspector General's response.

Below are a few examples of disposition agreement reviews the Inspector General reviewed in 2006.

Former Metropolitan State Hospital: The Inspector General reviewed the Second Amendment to the Land Disposition Agreement and the Release Deed for sale of the former Metropolitan State Hospital's main campus to AvalonBay Communities Inc., the developer designated by the Division of Capital Asset Management and Maintenance to develop the site. The review found the agreement consistent with Chapter 309 of the Acts of 1996 and with the Land Disposition Agreement. The sale price was established at \$7,893,240 plus additional considerations as enumerated in the Land Disposition Agreement.

Disposition of Property at the Former Boston State Hospital: The office reviewed the sale of approximately 39 acres of land located at what once was the Boston State Hospital to Lena New Boston LLC for \$386,890 plus \$2.6 million

in cash contributions for community benefits purposes. The developer proposes to build more than 440 units of housing, a skilled nursing facility, an urban farm and other elements over a six-year period. The review found that the components of the plan were consistent with the authorizing legislation and were reflected in the draft release deed.

CitySquare Development Agreement in Worcester: The Inspector General's office weighed in on a proposed agreement between the city of Worcester and a private developer, Worcester Renaissance LLC, to undertake a downtown building project. The review found that the pact complies with Chapter 133 of the Acts of 2006 by including specific provisions protecting the \$89 million in federal, state and city financing allocated to the project.

Former J. T. Berry Rehabilitation Center Disposition: The Inspector General's office reviewed and commented on a proposed third amendment to the Land Disposition Agreement between the Division of Capital Asset Management and Maintenance and a private developer, The Gutierrez Co. This office recommended that language be included to ensure that the developer pay \$1.5 million toward public wastewater treatment enhancements at the end of the project's residential phase.

Lynn Heritage State Park Visitor Center: The Inspector General reviewed a draft lease agreement between the state and the Lynn Historical Society and Museum Inc. The Inspector General recommended clarifications of two elements of the draft 25-year lease and approved it as meeting the terms and conditions of Chapter 175 of the Acts of 2004.

Amendments to Lease for Kids Replica Ballpark, Inc.: The Inspector General reviewed proposed amendments to a ground lease disposition agreement on state land in Quincy for use as a ballpark. The amendments were consistent with the authorizing legislation and were approved.

Property within the Glavin Mental Health Center in Shrewsbury: This office reviewed draft release deeds for three parcels comprising 4.32 acres and found them consistent with legislation disposing of the property.

Agriculture Land in Westborough: This office reviewed and approved a Care and Control agreement between the Division of Capital Asset Management and Maintenance and the Massachusetts Department of Agricultural Resources regarding the transfer of about 11.5 acres of land restricted to agricultural purposes.

And here are some examples of appraisal reviews conducted by this office:

Land Swap in Randolph: The Inspector General approved appraisals of two parcels of land in Randolph, each about 3.2 acres in size. One parcel owned by the state abutting the Blue Hills Reservation was proposed to be swapped for a parcel of privately owned land suitable for conservation or recreation use.

Land Exchanges in Westborough and Hopkinton: This office reviewed and approved three appraisals related to a swap of state land for private land. One appraisal was of two parcels being conveyed to a private trust. The second appraisal was of two parcels to be conveyed to the state. The third appraisal was of conservation restrictions to be received by the state. All the property involved was not developable and was to be used for conservation and recreation purposes.

Appraisal of Land in Revere at Elliot Circle: The office reviewed and approved the appraisal of a 14,662-square-foot parcel of land to a trust controlled by abutting property owners for use as parking for a residential building.

Land at Tewksbury State Hospital: The Inspector General reviewed and approved an appraisal of 3,687 square feet of land on the campus of the Tewksbury State Hospital. The land was to be conveyed to an abutting landowner whose residence encroached on the state property.

Three Parcels to be Conveyed to the Town of Wellesley: The Inspector General approved the appraisal of three adjacent parcels of the former Lake Cochituate Aqueduct for general municipal purposes.

Land Swap in Rowley: The Inspector General reviewed and approved the appraisal of three parcels in Rowley, adjacent to the Rowley River.

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Local Government Procurement Assistance and Enforcement

The Office of the Inspector General provides extensive technical assistance to local government officials regarding Massachusetts public procurement laws. The Inspector General encourages effective and ethical public purchasing by local governments by providing training and professional development; publishing manuals and a quarterly "Procurement Bulletin"; and by answering inquiries, complaints and protests. The Inspector General also interprets and formulates policy on M.G.L. c. 30B, the procurement law that local governmental bodies follow when they buy supplies, services, equipment and real property or dispose of surplus property.

Training and Professional Development

The Inspector General's office administers the Massachusetts Certified Public Purchasing Official Program (MCPPO), which the office created 10 years ago to certify municipal officials in public purchasing principles. The training program is designed to develop the capacity of public purchasing officials to operate effectively and promote excellence in public procurement.

Approximately 500 municipal purchasing officials took Massachusetts Certified Public Purchasing Official courses in 2006, bringing the total number of participants since 1997 to more than 6,000.

Public purchasing officials are responsible for procuring the supplies, services and facilities required to provide public services. These procurements involve massive expenditures of public funds. Therefore, it is important that state and local officials understand the process.

In 2006, through the MCPPO program, the Inspector General offered three (3) three-day seminars: "Public Contracting Overview," a prerequisite for other courses, that includes segments on Massachusetts purchasing and construction laws, purchasing principles, prevailing wage law, public records law, and ethics; "Supplies and Services Contracting", which assists participants on how to interpret M.G.L. c. 30B, how to use invitations for bids (IFBs) and requests for proposals (RFPs), writing effective specifications, soliciting price quotations and common bidding problems; and "Design and Construction Contracting," which provides in-depth instruction in the procurement laws governing public design and construction in Massachusetts, effective design and construction contract administration, prequalification and alternative delivery methods, and special issues in construction bidding. Each of the above training seminars culminates in an examination. Also offered in the spring and the fall of

2006 were the two-day “Advanced Topics Update” seminar and the one-day “Construction Management at Risk Under M.G.L. c. 149A” seminar.

In addition to the seminars in the MCPPO program mentioned above, the Inspector General has created a new two-day seminar entitled “Charter School Procurement,” which assists charter schools in satisfying the state requirement that certain administrators earn an MCPPO certificate.

In the latter part of 2006, the Massachusetts School Building Authority promulgated new regulations requiring that designers and owner’s project managers be certified in the MCPPO program. In response to this, the Inspector General created a four-day course entitled “Certification for School Project Designers and Owner’s Project Managers.” The training program, which is open to private sector personnel to meet the new certification requirement, was introduced in January 2007.

The Inspector General’s office also expanded its non-core curriculum seminars by offering “Bidding Basics and Contract Administration” and “Bidding Basics 101,” as options to be requested by local jurisdictions for procurement training at their location; and also offered computer-based training with “Drafting a Model Invitation for Bids.”

Each participant who successfully completes a core-curriculum seminar receives a certificate of completion. Participants who complete the requisite seminars and who meet education and experience requirements may apply for any one of six MCPPO designations, which includes three associate levels.

The Inspector General’s office also provided speakers on public procurement laws at programs sponsored by the state’s Operational Services Division, the Plymouth County Department of Public Works, the Massachusetts Association of Public Purchasing Officials, and the state’s Department of Housing and Community Development. The topics of those talks included municipal bidding laws and real property issues.

Inquiries, Complaints and Protests

In 2006, the Office of the Inspector General responded to 3,030 inquiries about M.G.L. c. 30B and other public bidding laws. The Inspector General regularly advises purchasing officials on how to obtain best value and increase competition for public contracts. The staff also responds to requests from local officials, aggrieved bidders and concerned citizens by reviewing bid and proposal documents for compliance with M.G.L. c. 30B.

Publications

The Office of the Inspector General publishes a wide range of materials designed to educate and inform local procurement officials, to provide guidance on best value contracting and to disseminate lessons learned. All publications listed in this section are available from the Inspector General’s website: www.mass.gov/ig.

In 2006, the Inspector General published an updated edition of “Municipal, County, District, and Local Authority Procurement of Supplies, Services, and Real Property.” This manual provides a comprehensive overview of M.G.L. c. 30B and a step-by-step guide to using M.G.L. c. 30B to obtain the best value when procuring supplies and services, disposing of surplus supplies, acquiring or disposing of real property, and procuring small construction-related contracts.

In 2006, the Inspector General published the following advisories: “Advisory for Local Officials: Control and Use of Public Equipment and Resources” (January 2006); “Advisory for Local Officials: Public Records”(February 2006); and “School District Control and Oversight of Administrative Expenses” (March 2006).

The Inspector General also published “An Analysis of Construction Projects Within the Commonwealth: January 2000 to December 2004” in May 2006, a comprehensive review of five years of state spending on construction, with data broken down by type of structure, category of construction and year of contract award. This report was followed by a similar report covering construction in 2005, published at the end of last year.

The Inspector General also continued to publish the “Procurement Bulletin,” a newsletter distributed to approximately 900 procurement officials and other interested parties across the state. Launched in 1994, the “Procurement Bulletin” summarizes current procurement-related news and issues, addresses frequently asked questions about M.G.L. c. 30B, provides legislative updates and highlights special topics in procurement.

Current and past issues of the “Procurement Bulletin” and an index of past issues can be downloaded from the Inspector General’s website.

Bylaw and Charter Amendment Reviews

Each year, the Inspector General’s office provides critical input to the Attorney General’s office as it conducts reviews of municipal bylaws and charter amendments to ensure that they comply with state law. Specifically, the Inspector General’s office offers input on whether such bylaws and charter changes comply with the Uniform Procurement Act, Chapter 30B of the General Laws.

In 2006, this office reviewed three such cases at the Attorney General’s request. One involved a water betterment bylaw for the town of Brewster; another concerned an amendment to the contracts section of North Brookfield’s general bylaws; and the last case involved reviewing an audit bylaw for Longmeadow.

Legislative Reviews

The Office of the Inspector General reviewed and commented on many legislative proposals during the second half of the 2005-2006 legislative session and continued to track those that had been heard in the first year of the session. In many instances, lawmakers redrafted bills following the Inspector General's recommendations. The office continued to support the construction reform technical amendment bill and to oppose land disposition bills that seek to exempt certain property transactions from M.G.L. c. 7 or M.G.L. c.30B.

Among the bills on which the Inspector General provided input were the following:

- Chapter 46, "An Act Authorizing Certain Actions by the Braintree Electric Light Department Generating Project," which included the office's recommendations;
- House Bill 4152, "An Act Relative to Municipal Construction Projects in the City Known as the Town of Franklin," which was not enacted by the Legislature.
- House Bill 4500, "An Act Authorizing the Division of Capital Asset Management and Maintenance to Convey Certain Land Known as Outer Brewster Island" for use as a liquefied natural gas terminal, which was not enacted.
- House Bill 4658, "An Act Relative to the Leasing of Publicly-Owned Land for Agricultural Purposes," which was vetoed by the governor.

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Legislative Recommendations: Second Half of 2005-2006 Session

Under M.G.L. c. 12A, the Office of the Inspector General has the authority to recommend policies that will assist in the prevention or detection of fraud, waste and abuse. The Inspector General must report these recommendations annually to the governor and the Legislature.

During the second half of the 2005-2006 legislative session, the Inspector General submitted the following eight bills for consideration:

House 4, An Act Clarifying Oversight by Municipal Financial Officers of Municipal Light Department Expenditures

The bill amends the law relative to the management and oversight of municipal light department expenditures; directs local authorities to appoint managers of municipal lighting; requires said managers to submit annual statements to local authorities; requires payment of all amounts for the sale of gas or electricity to the city or town treasurer; authorizes municipal auditors to inspect accounts related to said sales; directs local authorities to approve expenditures by said managers; prohibits members of municipal light commissions from accepting gifts, commissions or other compensation from persons entering into contracts with the city, town or municipal lighting plants without disclosing their interest in said contracts; articulates penalties for violation of said provisions; requires all contracts made by said municipal light commissions or boards to be in writing; regulates disclosure of said contracts to city and town auditors; articulates record keeping requirements for said sale of gas or electricity by municipalities.

House 5, An Act Enabling Municipalities to Utilize Reverse Auctions

The bill would enable municipalities with a Chief Procurement Officer to utilize reverse auctions to procure supplies and services of \$25,000 or more which must presently be procured using an invitation for bids (IFB) or request for proposals (RFP) process under M.G.L. c.30B, the Uniform Procurement Act. This legislation would create a new section of M.G.L. c.30B.

House 6, An Act Relative to the Ethics Commission

The bill would amend chapter 268B by adding the Inspector General to the list of officials who can share personnel and materials with the Ethics Commission. Presently, the auditor, attorney general and Office of Campaign and Political Finance are allowed. This legislation would allow

the agencies to cooperate in matters which they have joint interests. This legislation has full support of the Ethics Commission.

House 7, An Act Repealing Tow Exemption

The bill would repeal an unnecessary Chapter 30B exemption. Contracts for police ordered towing and storage of motor vehicles would be subject to the bidding requirements of the Uniform Procurement Law.

House 8, An Act Repealing Trash Exemption

The bill would repeal the exemption to M.G.L. c. 30B for solid waste disposal and recycling services. M.G.L. c. 30B requires local jurisdictions to conduct best value procurements of supplies, equipment, services, and real property by fostering competition in the private marketplace. Competition is an essential prerequisite to efficient, cost effective contracts with the private sector.

The exemption to M.G.L. c. 30B for solid waste disposal and recycling services does not serve the public interest in obtaining services from qualified vendors at the best available price. House No. 8 would repeal this exemption, thereby subjecting these services to open and fair competition. There is no public policy justification for permitting these lucrative contracts to be awarded on a no-bid basis.

House 9, An Act Concerning Proprietary Specifications in Public Construction

The bill amends provisions relative to the establishment of specifications for qualified materials used on public works contracts, or the purchase of materials for same; requires statement of said specifications using descriptive elements and characteristics, and performance standards; requires said standards to provide three named brands of material; articulates procedures for exempting specifications from said procedures; requires said standards to accept an item equal to those named or described.

House 10, An Act To Increase Penalties To The Federal Levels For Bid Rigging And Conspiracies In Restraint Of Trade

The bill would increase the penalties for bid rigging and conspiracies in restraint of trade to the federal level. Presently, the Commonwealth's antitrust statute is inadequate to protect the citizens against such flagrant crimes as bid rigging. Municipalities within the Commonwealth are fleeced by this practice and forced to pay much more for their necessary goods and services.

House 11, An Act Relative to Boat Excise

The bill would prohibit issuance of new or replacement registration certificates or numbers to an owner of a motorboat unless the owner presents proof of excise tax payment on the motorboat.

Senate Docket No. 2767, An Act Providing for Reform in Public Construction

The bill would address several inadequacies and loopholes in the state's horizontal construction laws that were brought to light in connection with the Big Dig. The bill mandates the hiring of an independent "owner's engineer" on project's estimated to cost \$50 million or more and sets requirements for the candidates.

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Listing of 2006 Reports and Publications

The Office of the Inspector General published dozens of reports, letters and guides in 2006. The following documents are available on the Inspector General's Internet site www.mass.gov/ig:

- **Review of Public Access To and Control Of the Town of Chatham's Moorings**, letter to David R. Whitcomb, Chairman, Board of Selectmen, December 2006.
- **Legal and Financial Concerns Relative to the Plan to Transfer the Western Turnpike to MassHighway**, letter to Chairman John Cogliano and Commissioner Luisa Paiewonsky, December 2006.
- **Review of Audit Procedures and Land Valuation Methodology relative to Chapter 40B Projects**, letter to Aaron Gornstein, Executive Director of Citizens Housing and Planning Association (CHAPA), December 2006.
- **Review of Certain Transactions with the City of Amesbury**, letter to Nicholas Costello, Chairman of the Board of the Alliance for Amesbury, November 2006.
- **Review of the Impacts of Elimination of Tolls on the Massachusetts Turnpike**, letter to John Cogliano, Chairman, Massachusetts Turnpike Authority, November 2006.
- **Review of Developer Profits - Lancaster Estates, LLC and a Leominster M.G.L. Chapter 40B Project**, letter to Mayor Dean J. Mazarrella, November 2006.
- **Comments Regarding Proposed Cost Certification Instructions relative to M.G.L. Chapter 40B**, letter to Thomas R. Gleason, Executive Director, MassHousing, November 2006.
- **Review of Developer Profits - Cedar Farm Estates Realty Trust and a Wareham M.G.L. Chapter 40B Project**, letter to Renee Fernandes-Abbott, Chairman, Board of Selectmen and Michael Hartman, Town Administrator, November 2006.
- **Review of Consultant Contracting in the Town of Webster**, letter to Dana Keenan, Town Administrator, November 2006.
- **Review of Expense Reimbursements to Board Member Lawrence P. Driscoll**, letter to Joseph E. Connarton, Executive Director, Public Employees Retirement Administration Commission, October 2006.
- **Investment and Recordkeeping Practices of Retirement Boards, Written Testimony Letter to Joseph I. Martin, Deputy Executive Director, Public Employees Retirement Administration Commission, October, 2006.**
- **Interim Review of the Partial Collapse of the Interstate 90 Ceiling and the Obligations of Various Commonwealth Entities to Inspect, Maintain, and Certify the Safety of the Tunnel**, letter to Senator Steven A. Baddour and Representative Joseph F. Wagner, Joint Committee on Transportation, October 2006.
- **Review of the Monitoring Process of the Limited Dividend Requirement Associated with Chapter 40B**, letter to Thomas R. Gleason, Executive Director, MassHousing, September 2006.
- **Review of Municipal Vehicle Management Policies**, letter to public officials, September 2006.

- **Recommendations Regarding the Use of State Resources on School Building Construction Projects, letter to the Massachusetts School Building Authority Board of Directors, September 2006.**
- **Review of Operations at the Water Plant, letter to the Board of Selectmen of the Town of West Brookfield, August 2006.**
- **Review of Removal of Fill Material from Fitchburg's Gravel Pit, letter to Mayor Daniel Mylott, August 2006.**
- **Review of Allegation of Private Cottages on Public Land, letter to Chairperson Jon Fuller, Town of Orleans, August 2006.**
- **Review of the Town of Amesbury's Disposition of the Bailey's Pond Parcel, letter to Amesbury Mayor Thatcher W. Kezer III, July 2006.**
- **Review of the Columbus Center Tax Increment Financing Project Plan, letter to Members of the Economic Assistance Coordinating Council, June 2006.**
- **Review of the Operational Services Division's Procurement of an Information Technology Services Contract, letter to State Purchasing Agent Ellen Bickelman, June 2006.**
- **Review of Allegations Concerning Missing Abington Board of Health Cash Receipts, letter to the Abington Board of Health Commissioners, June 2006.**
- **Review of the Public Works Design Services Contract, letter to Dana Keenan, Town Administrator, Town of Webster, June 2006.**
- **Investigation of Charles Bradshaw Lincoln's Pension from Plymouth County, letter to Public Employee Retirement Administration Commission Chairman Domenic J. F. Russo, May 2006.**
- **Massachusetts Port Authority's Banking Services Consultant Contract and Related Banking Services Contract, letter to Executive Director Craig P. Coy, May 2006.**
- **Developer Profits - Crossroads Development, LLC and an Acton M.G.L. Chapter 40B Project, letter to Peter Ashton, Chairman, Board of Selectmen and Don P. Johnson, Town Manager, May 2006.**
- **An Analysis of Construction Projects Within the Commonwealth: January 2000 to December 2004, Revision One, May 2006.**
- **Middlesex Retirement System's Headquarters Renovations, letter to Public Employee Retirement Administration Commission Executive Director Joseph E. Connarton, April 2006.**
- **Proposed Sale of the City of New Bedford's Fairhaven Mills parcels, letter to Mayor Scott W. Lang, April 2006.**
- **Towing Contracts in the City of Lowell, letter to City Manager John F. Cox, April 2006.**
- **Inspector General Helps to Recover More than \$117,000 for School Districts, April 2006.**
- **The Virtual Gateway: MassHealth and Uncompensated Care Pool Web-based Data Intake and Eligibility Determination System, March 2006.**
- **School District Control and Oversight of Administrative Expenses, March 2006.**
- **Advisory for Local Officials: Public Records, February 2006.**
- **Follow-up to: Economic Incentive Tax Credit Decertification Letter, February 2006.**
- **Advisory for Local Officials: Control and Use of Public Equipment and Resources, January 2006.**

- **Middlesex Retirement System's Investment Activities, letter to Public Employee Retirement Administration Commission Executive Director Joseph E. Connarton, January 2006.**