



Office of the
Inspector General
Commonwealth of Massachusetts

Gregory W. Sullivan
Inspector General

2009 Annual Report

June 2010

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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 Secretary of Administration and Finance

The Office of the Inspector General is dedicated to preventing and detecting fraud, waste, 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 can be made public. Among the highlights for 2009:

- A case that resulted in the conviction of three MBTA construction division inspectors;
- The continued monitoring of Chapter 40B;
- A case that led to a \$200,000 settlement with a medical supply vendor;
- A case that led to the convictions of two Haverhill Highway Department employees;
- A case that led to the recovery of \$215,000 from a social service provider; and
- A case that led to guilty pleas from two Boston Housing Authority employees.

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

Sincerely,

A handwritten signature in black ink 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's office 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 commonly referred to as the Ward Commission in honor of its chairman John William Ward, produced a 12-volume report documenting massive fraud and waste and detailing reform recommendations.

"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 recommend creation of an independent Office of the Inspector General.

"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 fraud, waste, and abuse of public resources. In addition, the Office of the Inspector General 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.

Inspector General Gregory W. Sullivan meets quarterly with the Inspector General Council to consult with them about the duties and responsibilities of the Office of the Inspector General. In 2009, the eight members on the council were: Auditor A. Joseph DeNucci, chairman, Attorney General Martha Coakley, Comptroller Martin Benison, Secretary of Public Safety Kevin Burke, James Morris, Alan MacDonald, Kevin Sullivan and Salvatore Falzone, Jr.

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 may issue 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 be more appropriately handled by another agency.

In 2009, 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 United States Attorney for the District of Massachusetts; the State Ethics Commission; the Operational Services Division; the Division of Energy Resources; the Division of Capital Asset Management; numerous federal Inspector General's Offices; 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.

Two Former MBTA Construction Inspectors and an MBTA Resident Engineer Convicted of Larceny and Filing False Claims

Three former Massachusetts Bay Transportation Authority employees pled guilty in December 2009 to larceny and other charges that stemmed from a no-show jobs case initiated by the Inspector General and prosecuted by the Attorney General.

The two-year investigation targeted the MBTA's Design and Construction Department, where all three men were paid to supervise outside contractors. The men were expected to be on-site daily to oversee construction progress and ensure that project specifications were met. The investigation discovered that the men falsely submitted timesheets claiming they were working in their MBTA positions when, in fact, they were elsewhere.

Investigators found that Christopher Peatridge, a 64-year-old Saugus resident, was repeatedly paid by the MBTA based on time sheets that

showed him working on-site as an MBTA construction inspector when, in fact, he was working for his own private security business. Peatridge's security business records shows that from July to November 2004, he was out-of-state for weeks at a time, staying in luxury hotels, and earning tens of thousands of dollars through his security company at the same time he was collecting his MBTA salary and benefits based on false time sheets. Between April and June 2005, surveillance showed Peatridge again getting paid a full day's wage for considerably less than a full day's work. On these days, which were supposed to start at 7:00 a.m., Peatridge would typically arrive for work after lunch and stay only a brief time.

Peatridge pled guilty to two counts of Presentation of False Claims and two counts of Larceny over \$250. He was sentenced to two-and-a-half years in the House of Correction, one year to serve with the balance suspended for two years, two years concurrent probation and a \$10,000 fine.

Surveillance also found that Michael O'Toole, a 49-year-old resident engineer from Milton, and Francis Flaherty, a 52-year-old construction inspector from South Boston were working far fewer hours than they claimed on their timesheets.

Investigators watched O'Toole repeatedly between April 2004 and June 2005 and discovered that he rarely worked for more than a few hours a day and on some days never appeared at his job site. Repeated surveillance of Flaherty between June and September 2006 found he worked considerably less than the eight hours a day he claimed on his timesheets.

O'Toole and Flaherty each pled guilty to a single count of Presentation of False Claims and Larceny over \$250. They were each sentenced to two years in the House of Corrections, suspended for one year, two years concurrent probation and 200 hours of community service.

Officials at the MBTA cooperated with the Inspector General and the Attorney General throughout the investigation.

Assabet Valley Regional Technical School Officials Manipulating and Abusing Surplus Funds

In February 2008, the Inspector General issued a report detailing Assabet Valley Regional Technical School officials' possible violations of state law, excessive and abusive spending, and deviations from accepted practices. The Inspector General's review found that, as of June 30, 2006, Assabet administrators had control of nearly \$6 million in surplus funds held in investment accounts. A large percentage of the surplus funds were being

held in accounts for what appeared to be questionable reasons. The report stated Assabet officials created the surplus funds without proper justification and called them “reserve” funds. Applying the surplus funds would trigger a reduction in assessments to communities that make up the district. Assabet officials got around the cap on surplus funds by improperly classifying the investment accounts as “reserve” funds.

The review added that Assabet administrators engaged in excessive spending using these accounts. For example, Assabet routinely sent more than 20 people to annual conventions in Las Vegas and other destinations, far more than attendees from other vocational school districts. Assabet also subsidized attendance by spouses and others who are not Assabet staff members. The report documented the superintendent’s double-dipping on transportation expenses, the use of public funds on alcoholic beverages at conferences, trainings and other events, the lack of internal financial controls, and the failure to competitively procure gasoline. The results of the review were referred to the Assabet school committee and, in the case of the excessive surplus, the state Department of Revenue.

In April 2009, Assabet officials informed communities that the district would be returning a portion of the surplus funds, based on the Department of Revenue’s disapproval of one reserve fund originally investigated by the Inspector General’s office. Member communities will receive \$821,000 in surplus funds.

Also in 2009, the Office hired an auditing firm with a significant background in municipal and school district accounting to address Assabet’s contention that its accounting was not improper and that its spending for conventions was reasonable. The findings of the review were discussed with the Department of Revenue and the Department of Elementary and Secondary Education who concurred with the findings and have already initiated discussions with Assabet to close a number of inappropriate accounts.

The Office plans to release a full and final report in 2010.

Disabled Person’s Parking Placard Abuse

In August 2008, Governor Deval Patrick signed into law an act making it a felony to alter or forge a disabled person’s parking placard. The measure followed a report by the Inspector General in 2007 that detailed significant abuse of the placards, which allow the driver of the vehicle to park in designated disability zones and at metered parking spaces free of charge.

Working with the Registry of Motor Vehicles, the Massachusetts State Police, and the Boston Transportation Department, the Inspector General's Office in 2006 investigated whether able-bodied individuals avoided parking citations and parking meter fees by using these placards, and thereby depriving genuine placard holders the use of these spaces. The Office continued this effort throughout 2009.

Joint Investigation Leads to Guilty Pleas in Boston Housing Authority Bid Rigging Case

Joint investigative efforts by the Massachusetts Office of the Inspector General and the Massachusetts Office of the Attorney General resulted in guilty pleas for bid rigging by two former employees of the Boston Housing Authority (BHA) and a third party contractor.

Former BHA employee, Mark Collins pled guilty to 10 counts of Procurement Fraud, Conflict of Interest by a Municipal Employee, and Wanton Destruction of Property over \$250. Collins's wife, Gisela Collins who is also a former BHA employee, pled guilty to the charge of Conflict of Interest by a Municipal Employee. Jayson Tracey, a West Bridgewater business owner, pled guilty to seven counts of Procurement Fraud.

The joint investigation focused on the owners of two flooring companies who fraudulently won contracts at the BHA from May 2006 through October 2007. The investigation revealed that the owners and their companies rigged the bidding process, and in some instances submitted fake bids, in order to win these contracts.

The company, Flooring Designs, Inc., based in West Bridgewater and owned by Jayson Tracey, won 18 BHA contracts between May 2006 and March 2007. Investigators discovered that Tracey was able to win seven of these jobs by allegedly submitting fake bids in the name of a friend's business. Investigators discovered that because of this fraudulent scheme, Tracey won contracts to install flooring in the BHA buildings worth approximately \$33,000.

Investigators also discovered that a company named Citypoint Construction Inc. (Citypoint) based in Jamaica Plain was owned by BHA employee Mark Collins. Between July 2007 and October 2007, Citypoint submitted bids and won 15 flooring jobs at the BHA worth over \$47,000. Although Collins participated as a BHA employee in soliciting bids from vendors and submitting bids to his BHA managers, he did not disclose his ownership interest in Citypoint. In addition to improperly using inside information to help Citypoint win flooring contracts, Collins created and submitted fake bids for several of these jobs. It was also alleged that

Collins's wife, Gisela, improperly used her position as a manager at the BHA to help her husband's company win a contract.

The BHA later fired Mark and Gisela Collins for the alleged misconduct. They were ordered to move out of the BHA apartment in which they had been living. While leaving the property, Mark Collins recklessly caused over \$250 in damage to the apartment.

Mark Collins was sentenced to serve one year in the House of Correction on the Procurement Fraud (10 counts), and one year in the House of Correction on the charge of Conflict of Interest by a Municipal Employee. The sentences will run concurrently. On the charge of Wanton Destruction of Property over \$250, Collins was ordered to serve two years of probation upon completion of his House of Correction sentence. A restitution hearing to determine the amount of money owed to the BHA will be scheduled at a later date. Gisela Collins was sentenced to one year of probation. Jayson Tracey was sentenced to 18 months probation. As a condition of his probation Tracey is barred from bidding on any BHA contracts.

Two Haverhill Highway Department Employees Convicted

Two employees of the city of Haverhill's Highway Department were convicted in June 2009 of larceny and other charges in connection with a scheme to use city personnel, material, and equipment on private contracting jobs on city time over a period of several years.

The Inspector General launched an investigation upon receiving an anonymous letter that claimed James Flaherty, Superintendent, Haverhill Highway Department (DPW) and his son Kevin Flaherty, DPW Foreman, used DPW employees, supplies and equipment to complete paving work for their private business. Sources alleged that both James and Kevin Flaherty also worked on these private paving jobs when they should have been working for the city.

Surveillance and interviews conducted by investigators from this Office and the Massachusetts State Police substantially corroborated the allegations contained in the initial complaint. Information developed during the investigation led to search warrants for the DPW, James Flaherty's home, and a storage facility that housed his equipment.

James Flaherty retired and Kevin Flaherty was fired by the City of Haverhill prior to a June 2007 indictment that charged both men with larceny by continuous scheme. Kevin Flaherty was also charged with presentation of false claims while James Flaherty was also charged with filing false tax returns.

Following a nine-day trial, James Flaherty was sentenced to two years in the House of Correction with six months to serve and the balance suspended. He was also ordered to file accurate tax returns and pay the state what he owes in unpaid taxes. Kevin Flaherty was sentenced to two years in the House of Correction with four months to serve and the balance suspended. He was also ordered to pay \$857 in restitution to the city of Haverhill and perform 200 hours of community service. James Flaherty was also stripped of his pension.

Middlesex Retirement System

In April 2008, the State Ethics Commission fined Lawrence P. Driscoll, a former board member of the Middlesex Retirement System, \$13,000 after he admitted violating the state's conflict of interest law by hiring his friend and submitting false expenses to the board for reimbursement. The sanctions were the most recent actions to result from a series of disclosures by the Inspector General of fraud, bid-rigging and lax oversight at the Middlesex Retirement System.

In October 2006, the Inspector General wrote to the state's Public Employee Retirement Administration Commission (PERAC) to inform commission officials that Driscoll, one of five board members, had submitted more than \$10,000 in fraudulent expense receipts between 2000 and 2004. Furthermore, Mr. Driscoll had double-billed more than \$60,000 to both the Middlesex Retirement System and his private employer, a stock brokerage firm. Earlier in 2006, the Inspector General informed PERAC that numerous documents had been created to cover up bid-rigging relating to the Middlesex Retirement System's 2002 renovation of its Billerica headquarters, a project awarded to a close friend of Driscoll and another Middlesex board member.

The State Ethics Commission launched an investigation into the Middlesex Retirement System in response to the Inspector General's October 2006 letter to PERAC officials. In April 2008, Lawrence P. Driscoll admitting violating state ethics laws by awarding a \$557,000 renovation contract to a close friend and by submitting thousands of dollars in fraudulent expense receipts. Driscoll signed a disposition agreement with the State Ethics Commission to resolve the case, agreeing to pay a \$10,000 civil penalty and a civil forfeiture of \$2,683. As a result of the State Ethics Commission finding PERAC barred Driscoll for ever again doing business with a Massachusetts retirement board.

In August 2008, Driscoll failed to disclose the sanctions by the State Ethics Commission and PERAC when he registered as a stock broker in the state of Virginia. The Inspector General's Office worked with the Massachusetts Secretary of State and Virginia officials to prove that the

former Middlesex Retirement System board member had lied on his securities application. In January 2009, the state of Virginia barred Driscoll for five years from registering as a securities dealer.

Everett Officials Fined by State Ethics Commission

In March 2008, the State Ethics Commission filed an Order to Show Cause against Everett Public Schools Superintendent Frederick Foresteire and Everett Public Schools Maintenance Manager Lona DeFeo for violating the state's conflict of interest law. The allegations grew out of an investigation by the Office of the Inspector General that resulted in indictments against 11 individuals and five companies in 2004.

The State Ethics Commission alleged that DeFeo ordered school department employees to work on Foresteire's house and, in some cases, purchase supplies with city funds that were delivered to Foresteire's home. For example, DeFeo directed a plumber to work in Foresteire's private home during regular working hours on approximately 20 occasions in 2002. Foresteire also unilaterally decided the price he would pay the plumber for the work, which was less than market rate. DeFeo also had a school carpenter buy \$234 worth of plywood with city funds, transport it to Everett High School, and cut it during school hours. Another maintenance employee then picked up the cut plywood and delivered it to Foresteire's home using a school department vehicle.

On February 12, 2009, the Ethics Commission levied a \$6,000 fine against Foresteire and a \$4,500 fine against DeFeo for violating the state's conflict of interest law.

Boston Fire Department Accidental Disability Pension Charges

Two former Boston firefighters accused of faking injuries in order to collect enhanced, tax-free disability pensions were charged with mail fraud in October 2009. Both men pled not guilty to the charges. In addition, a Boston Fire Department clerk was charged with perjury and obstruction of justice for lying to the Federal Grand Jury investigating the frauds against the City of Boston. The clerk pled guilty to the charges in December 2009.

The indictments were the result of an ongoing investigation by the Office of the Inspector General into accidental disability pension abuse in the Boston Fire Department. The Boston Police Department assisted with the investigation. The cases are being prosecuted by the U.S. Attorney for the District of Massachusetts.

Albert Arroyo, a Boston resident, had been a Boston firefighter for more than 20 years when he claimed to have suffered a career-ending injury while walking on a stairway in a Jamaica Plain fire station in March 2008. No one witnessed Arroyo's fall, which he claimed aggravated an 8-year-old, on-the-job back injury and left him totally and permanently disabled from the performance of his duties.

Under state law, firefighters who are injured on the job receive their full salaries while out on injured leave. Injured leave paychecks are exempt from federal taxes. Firefighters who are injured on the job also may apply for accidental disability pensions, which are paid at a higher rate than ordinary pensions. Accidental disability pensions are also exempt from federal taxes.

At the time of his claimed fall, Arroyo was assigned to Fire Prevention, a job which did not require fighting fires, but rather required him to inspect buildings and to complete various paperwork related to those inspections. Immediately following his claimed fall, Arroyo applied for injured leave.

In April 2008, Arroyo filed an accidental disability retirement application claiming he was permanently and totally disabled as a result of his March 2008 fall. His application falsely claimed that he had not participated in any sports or strenuous activities within the past year. In fact, during that year – and following his claimed injury – Arroyo repeatedly visited gyms where he trained for a May 2008 body building competition. Arroyo's disability benefits were terminated after his body building became public. He was ordered back to work and fired when he failed to report to the Fire Department.

James Famolare, of Billerica, joined the Boston Fire Department in 1969. In June 2006, while filling in for his absent supervisor, the Deputy Chief of Personnel, Famolare claimed he suffered a career-ending injury while moving a box of files.

Boston firefighters' union contract says that a firefighter who fills in for a Deputy Chief temporarily earns the Deputy Chief's higher salary. State law bases accidental disability pensions on the salary earned the day of a firefighter's injury.

Famolare immediately filed an injury report falsely claiming that a subordinate had witnessed his injury. Famolare spent more than two years on injured leave, collecting the full salary of the Deputy Chief of Personnel, and earning some \$300,000 exempt from federal taxes.

The indictment also accuses Famolare of shopping for a doctor who would certify that he was totally and permanently disabled.

In October 2006, Famolare filed for an accidental disability pension with the Boston Retirement Board. He withdrew the application in August 2008 after learning that his disability claim was under investigation.

As a clerk in the Boston Fire Department's Personnel Department, Erika Boylan, a Boston resident, was responsible for processing disability pension applications. She could also allow firefighters to remain on injured leave – a more-lucrative status – by delaying those pension applications. The Grand Jury charged Boylan with lying when she testified that no one had ever asked her to slow down the process. Boylan originally pled not guilty but changed her plea in December.

The trio was indicted by a Federal Grand Jury on October 20, 2009. Arroyo faces two counts of mail fraud. Famolare faces six counts of mail fraud. If convicted on these charges, Famolare and Arroyo each face up to 20 years imprisonment, to be followed by three years of supervised release and a \$ 250,000 fine on each count of mail fraud.

Boylan was sentenced to two years of probation and 200 hours of community service on March 16, 2010.

Gloucester Police Department Timekeeping Procedures

An attempt by the Inspector General to investigate a complaint of Gloucester police officers working other jobs on city time led to a recommendation that the city strengthen its timekeeping procedures. The Inspector General was not able to fully investigate the complaint because the information received from the city was inadequate.

City time-keeping records are based on an "exception" reporting system meaning they only identify when an officer used "leave time" or did not work. Actual hours worked are not recorded. These records make it difficult to determine the hours spent on-duty. Although most officers have designated "shifts," some have schedule/shift flexibility because of rank or job title. Officers may also work overtime, work paid details and some may earn compensatory time (overtime paid in future time off rather than cash payments.)

The officers whose time the Inspector General attempted to review had flexible schedules. City records did not allow for a comparison against hourly time records maintained by the officers' other employers. Also, the city did not provide overtime or police detail records for the officers. The officers earned and used compensatory time, the records for which were self-maintained by the officers.

The Inspector General noted that the current timekeeping system is vulnerable to fraud, waste, and abuse and does not provide an adequate audit trail for review and internal control purposes. The Inspector General recommended that the city reevaluate the timekeeping practices at the police department and enact controls to reduce the risk of time theft. Timekeeping policies should be updated to include rules for the earning, recording and use of compensatory time. For example, city timekeeping policies reviewed by the Inspector General do not allow for earning of "comp time" so the police department may be in violation of city policies. The City should have a system where it can easily determine the date and hours worked by a police department employee, what the employee's assignment was during that time period, and the amount and type of allowable leave time used by the employee during a specific shift. Having this information would enable the City to address the issue of potential dual employment raised by the complaint the Inspector General received.

Gloucester Community Arts Charter School

The Office of the Inspector General reviewed the granting of a school charter to the Gloucester Community Arts Charter School (GCACS) by the Board of Elementary and Secondary Education (BESE). The purpose of the review was to ascertain whether that process complied with the requirements of law, regulation, and procedure governing the granting of school charters in Massachusetts. The review concluded: 1) that Massachusetts laws and regulations require that before a charter school applicant group may be granted a charter by the BESE, the Department of Elementary and Secondary Education (DESE) must first determine that the application has met certain specified criteria; 2) that the DESE Charter School Office (CSO) conducted the comprehensive application process established by the BESE and DESE in accordance with law and regulation and that at the end of that process the CSO concluded that the GCACS application had failed to meet the required criteria; 3) that the procedures established by BESE and DESE for the 2008/2009 Charter School application cycle prohibited the DESE commissioner from making a recommendation that the Board award a charter to an applicant group whose application did not meet the stated criteria for a charter in the application as corroborated by the CSO; 4) that Commissioner Mitchell D. Chester recommended that the Board award a charter to GCACS in contradiction of the process, constituting a procedural error; 5) that Commissioner Chester did not conduct any process by which he made an independent determination that the GCACS application had met the required criteria; 6) that because DESE never made a determination that the GCACS application met the criteria, it was beyond the legal authority of BESE to grant a charter to GCACS; 7) that the process used in approving the GCACS charter was procedurally defective; and

8) that BESE's granting of the charter was without authority of law. Based on the above conclusions the Inspector General determined the charter should be deemed void.

Review of the DNA Testing Operations

The Office reported on the DNA testing operations and the associated management structure of the Massachusetts State Police Forensic Services Group (Massachusetts State Police Crime Laboratory). Allegations of misconduct arising from actions of Laboratory personnel were reported in a series of newspaper articles in 2007 regarding problems related to management and functionality of the Combined DNA Index System (CODIS) DNA database and other Laboratory responsibilities related to the reporting and use of CODIS derived data. The report summarized the observations made during the course of this Office's investigation and made recommendations related to these observations.

The Office identified three major issues of concern related to the organizational structure of the Laboratory and its position within the Massachusetts State Police and the Department of Public Safety. These three issues arise from or are related in part to the Laboratory organization and placement with the parent organization, as follows:

Issue 1) The lack of scientific knowledge, non-existent program to develop scientific expertise and short job tenure in the position of the State Police Major in charge of the Laboratory contribute to issues of leadership's effectiveness as evidenced by disgruntled staff and issues of public confidence in its CODIS responsibilities.

Issue 2) Most management positions within the Laboratory are part of the same collective bargaining unit as non-management employees. This results in situations that represent a conflict of interest between management responsibilities and union affiliation.

Issue 3) The Laboratory employs both police officers and civilians as testifying analysts. Considerable salary discrepancies exist between these two groups.

The report made a number of recommendations to improve the Laboratory management structure and operations.

Chapter 40B

During 2009, the Inspector General's Office continued its ongoing investigation into the M.G.L. c.40B (Chapter 40B) cost monitoring process

for affordable home ownership. Under Chapter 40B, a developer may construct a housing project that does not comply with local zoning and land use controls. Also known as the “Anti-Snob Zoning Law” or the “Comprehensive Permit Law”, Chapter 40B provides developers with a streamlined review/permitting process and an override to local bylaws which typically results in a housing density bonus. In order to take advantage of the Chapter 40B benefits, a developer must agree to provide a percentage (typically 25%) of the proposed housing units to income-eligible households (typically 80% of area median income) and also to limit their profits (usually 20% of allowable development costs). At the completion of the project, the developer is required to submit a cost certification which details the related income and expenses. Profit in excess of the agreed upon limit is required to be paid to the municipality by the developer.

Beginning in 2006, the Inspector General began issuing reports documenting widespread and pervasive abuses of the cost certification process, practices that have cheated municipal governments out of millions of dollars in excess profits rightfully owed to them by developers of Chapter 40B projects selected for review. Abuses include the sale of market rate housing units at below market prices to related parties, in order to report lower profits through the 40B cost certification process. Expenses are also routinely inflated by developers, either through related party transactions or by attributing costs of non-40B work to the 40B development. The net effect of the underreported revenues and the excess expenses is to reduce the reported profits due to the municipalities. Based on reviews by the Inspector General several municipalities have filed civil recovery complaints against developers, with one leading to a \$500,000 settlement so far.

North Attleborough Electric Department

In 2005, this Office issued a report regarding the misuse of certain bond funds by the management of the North Attleborough Electric Department (NAED). Our investigation at the time revealed that the bond funds were improperly used by NAED management to start up an internet service provider business. The Office estimated that the misapplication of these bond funds would cost the town’s electric ratepayers more than \$8 million. The Office had concluded that NAED management knowingly misled town officials in requesting issuance of the bond funds for purported capital improvements to the electric light department plant.

In 2009 this Office undertook a review and evaluation of new evidentiary materials related to the use of these bond funds. This review was in response to a request made in December 2008 by the

attorney representing David Sweetland, the former general manager of the NAED. Mr. Sweetland's attorney requested that this Office's 2005 report be withdrawn from the Inspector General's website, since it was his contention that the report contained false or misleading statements. In order to expeditiously address these concerns, this Office requested that the statements believed to be false or misleading be identified and provided to us. The attorney for Mr. Sweetland did not provide any specifics but indicated that the information should be fully available through the Bristol County District Attorney's Office. Accordingly, this Office undertook an evaluation of evidentiary materials at the Fall River District Court and the Bristol County District Attorney's Office, and related materials from other sources.

In November 2009, this Office completed an in-depth review of the new evidentiary materials. These materials included videotapes that had been described by some as exculpatory. Based on this review we concluded that this new evidence including the videotapes provide further evidence that support the original findings from 2005, i.e. that "NAED management knowingly misled Town officials in requesting issuance of these funds" and that NAED management violated M.G.L. c. 44, §20. Accordingly the request to withdraw the 2005 report from the Inspector General's website was denied and results from the new review were posted as a supplement to the original report.

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Recovery of Funds

Often the investigations and reviews of the Office result in agencies or municipalities recovering funds that rightly belong to them. Generally, these recoveries come from settlements, negotiated agreements or court action. The Office will identify recovery opportunities and advise the appropriate authority of the potential recovery. Documentation and support from the Office is provided to assist the agency or municipality in its recovery efforts.

State Recoups \$13 Million from Software Firm and Four Men Indicted Following Probe of Flawed Procurement

In the fall of 2007, the Inspector General launched an investigation of the state's \$13 million purchase of software from Cognos Corporation in August 2007. Over the next year, the Inspector General revealed that the procurement was deeply flawed and that lobbyists received large, undisclosed payments simultaneously with the award of the \$13 million purchase.

On March 6, 2008, the Inspector General wrote to Administration and Finance Secretary Leslie A. Kirwan stating that a \$13 million purchase of software from Cognos Corporation several months earlier did not conform to state procurement laws and regulations. The Inspector General recommended that the purchase agreement be voided, the software returned, and the state obtain reimbursement. State officials subsequently negotiated repayment of the \$13 million from IBM, which had acquired Cognos Corporation in the intervening months.

In October 2008, the Inspector General wrote to Secretary of the Commonwealth William F. Galvin about payments to lobbyists either by Cognos directly or by a software reseller affiliated with Cognos. Secretary Galvin's Public Records office administers the Lobbyist Section, which enforces rules on disclosure of lobbying activities. The Inspector General informed the Lobbyist Section that internal Cognos records reported paying two entities as lobbyists that were not disclosed to that office. The letter also stated that Cognos paid significantly more to two other lobbyists than was reported to the Public Records office. Also, the Inspector General told the Lobbyist Section that a software reseller, Montvale Solutions LLC, earned a \$2.8 million commission on the \$13 million sale. The same day it received its commission, the firm paid \$500,000 to one lobbying firm and \$200,000 to a second lobbyist. A year earlier, Montvale Solutions LLC received a \$891,000 commission on Cognos' \$4.5 million

contract with the state Department of Education. Shortly after receiving the commission, the firm paid two lobbying entities \$100,000 each.

On June 2, 2009, Montvale Solutions LLC owner Joseph P. Lally Jr., lobbyists Richard McDonough and Richard Vitale, and former House Speaker Salvatore F. DiMasi were indicted by a federal grand jury on charges related to the Cognos contracts. The Inspector General investigated this issue, referred it to the United States Attorney and the Office has continued its involvement in this matter.

State Recovers \$200,000 from Medical Supply Vendor

A review by the Office of the Inspector General uncovered more than \$200,000 in possible overcharges by a medical supply vendor formerly on a statewide contract. The same vendor had three years earlier repaid \$86,000 to the Commonwealth on a similar issue.

The Inspector General reviewed nearly three years worth of vendor invoices paid by state agencies and other public entities that had used the contract. With the assistance of the Office of the Attorney General, the Operational Services Division (OSD) and the Lemuel Shattuck State Hospital, the Inspector General's Office determined that the vendor appeared to be in violation of the pricing structure allowed by the statewide contract. According to the form of the contract, only a standard mark-up from the price paid by the vendor for a particular commodity being sold to public entities was allowed. The Inspector General found that the vendor repeatedly exceeded the allowable mark-up.

The Office of the Inspector General presented its findings to OSD officials, who then initiated a cost recovery action against the vendor. This action resulted in a settlement agreement between OSD and the vendor whereby the vendor reimbursed the Commonwealth \$200,000 in installments over a 12-month period. The Inspector General monitored the vendor's compliance with this agreement.

Inspector General Helps Commonwealth Recover nearly \$215,000 from a Social Service Provider

A review by the Inspector General led the Commonwealth of Massachusetts' Operational Services Division (OSD) and Department of Mental Retardation (DMR) to recover a combined \$213,548 from the Judge Rotenberg Education Center Inc. (JRC), a not-for-profit that provides treatment services for children and adults who are mentally challenged and have severe behavioral disorders. The Office was notified of the recovery in early 2009.

The Inspector General informed DMR and OSD by letter of March 1, 2007 that an investigation conducted by the Division of Professional Licensure found that JRC had used unlicensed psychologists to provide services under its contracts with the Commonwealth and local school districts. The Inspector General found that JRC had billed the Commonwealth for licensed clinicians. As a result, the Inspector General suggested that DMR initiate cost recovery action against JRC for potential overcharges as well as possible failure to meet contractual requirements. OSD and DMR have protected the taxpayers' interests by ensuring that this contractor met its contractual obligations and charge for services appropriately.

By separate action in 2006, JRC paid \$43,000 to the Division of Professional Licensure under a consent agreement.

Braintree 40B Development

In the spring of 2008, the Office of the Inspector General initiated an investigation of the Turtle Crossing Condominium Complex ("Turtle Crossing") in Braintree. Developed by Commerce Park Housing Associates, LLC ("Commerce Park"), Turtle Crossing was built under provisions of Chapter 40B, the state's affordable housing law. Our investigation focused on the developer's compliance with the stated profit limitations also known as the limited dividend requirement. Through this investigation the Office determined that the developer had underreported their development profits.

The primary method employed by Commerce Park in underreporting development profits was through various devices that inflated reported development costs. Some of these ploys included: an undisclosed kickback scheme that resulted in nearly \$1,000,000 of profit to flow back to the developers while claiming these amounts as allowable development costs; the creation of a bogus expense account that captured more than \$500,000 of fictitious costs in an attempt to overstate the value of the site; and the use of a questionable accounting practice for fire insurance proceeds that had the effect of shielding approximately \$900,000 of profits. The Office's investigation identified approximately \$3,400,000 in "excess profits" (profits above the 20% limitation) that should have been paid at the completion of the project by Commerce Park to the Town of Braintree.

The Office shared its findings and concerns with the Attorney General Office. The Attorney General's Office opened its own investigation into the developers' compliance with the limited dividend requirements of Chapter 40B. This investigation by the Attorney General's Office resulted in a settlement agreement (October 2009) with the developer.

Commerce Park agreed to pay \$2,275,000 to settle any claims arising from the Attorney General's investigation, and claims related to the Chapter 40B cost certification process. Under the terms of the settlement, \$1,800,000 of the payment was directed to the Town of Braintree. Specifically, \$1,000,000 was placed in Braintree's affordable housing fund and \$800,000 was delivered to Braintree for other public uses. The remaining \$475,000 was directed to the Commonwealth's General Fund.

American Recovery and Reinvestment Act Oversight

ARRA Construction Law Amendments

In November 2008, the Governor formed a construction procurement efficiency task force to examine current statutes and regulations in preparation for the federal economic stimulus bill. The Inspector General participated on that task force which, recommended refinements to building and public works related procurement statutes. The task force intended these refinements to improve the efficiency and effectiveness of procurement to speed stimulus spending without compromising the integrity of an accountable, fair, and transparent process. The task force submitted its suggested legislative initiatives to the governor to be filed with the legislature. On February 17, 2009 the federal government enacted the American Reinvestment and Recovery Act (ARRA). The legislature approved the task force recommendations by the enactment of An Act Mobilizing Economic Recovery in the Commonwealth, Chapter 30 of the Acts of 2009 ("Chapter 30"). This new law provided for expedited procurement procedures for ARRA funded construction projects. The Inspector General worked with DCAM, union representatives and industry representatives to streamline the design and construction bidding procedures for construction projects built with ARRA funding.

ARRA Oversight

The American Recovery and Reinvestment Act provides for recoupment of up to 0.5% ARRA funds for central administrative costs. The funds are being used for ARRA coordination staff at the secretariat level and the Massachusetts Recovery Reinvestment Office; oversight functions at the State Auditor, Inspector General, Attorney General, Comptroller, and Operational Services Division; additional auditing activity; and a centralized reporting and monitoring system. In August 2009, the Office requested additional funding to increase ARRA oversight. The Executive Office of Administration and Finance approved this request and the Office received a modest increase in funding specifically for ARRA oversight for an 18-month period spanning Fiscal Years 2010 and 2011.

This Office has implemented its ARRA oversight plan in accordance with its mandate under Massachusetts General Laws Chapter 12A, to

prevent and detect fraud, waste, and abuse by executing a plan that addresses: 1) ARRA funds that do not flow through commonwealth agencies but that go directly to grantees; 2) municipal recipients of funding that do not have a direct reporting relationship with the commonwealth; and 3) assisting grantor agencies at the state level to develop internal fraud, waste and abuse monitoring capacity. Because the Office did not receive additional funding for ARRA oversight until late 2009, the need to hire and train new staff, and the research and education involved with ARRA and federal programs, the Office's oversight plan could not fully begin until 2010.

Office staff also regularly meets with the Attorney General's STOP Fraud Task Force, staff from the State Auditor's Office and has consulted with staff from various federal Inspectors General, the U.S. Government Accountability Office, the state's single audit firm, state legislators, and other stakeholders.

The Office also assisted the Comptroller's Office with the development of an anti-fraud resource guide (Toolkit for Departments to Combat Fraud, Waste and Abuse) that has been widely disseminated to agencies at the state level and to other ARRA recipients such as municipalities, not-for-profits, school districts, and others. The Office has also assisted the Comptroller's Office with an anti-fraud training program that will be provided to state agency staff and others during the course of ARRA and beyond as part of the Comptroller's internal control guidance.

Office staff has also conducted anti-fraud, stimulus program and procurement training for state agencies, municipal and school district officials and professional organizations. The Office continues its outreach efforts to broaden the reach of these trainings including the introduction of video conferencing in December 2009 intended to reach wider audiences, and reduce the time and travel commitments involved with training. Office staff has also attended a wide variety of ARRA related training conducted by state, federal, and private experts.

In addition to training, the Office has issued written guidance including: Fraud Reporting Advisory to contractors, vendors and others notifying them of fraud reporting and false claims act reporting requirements (September 2009); Fraud Prevention Guidance for ARRA fund recipients notifying them of fraud prevention best practices that should be used under ARRA and after ARRA (November 2009).

The Office also publishes a quarterly Procurement Bulletin for local officials around the state. Beginning in March 2009, the Bulletin has included ARRA specific information and guidance including reminding

grant recipients to fully understand the procurement rules, recordkeeping and reporting requirements contained in each grant, recommending that officials obtain proper training and guidance regarding all rules surrounding the grant, answering ARRA-specific procurement questions, admonishing officials to “Beware of Fraud in ARRA Spending and Beyond” including vigilance and creating an effective control environment. Beginning with the last Bulletin of 2009, there is a page in the Bulletin devoted exclusively to stimulus-related issues. The first ARRA “page” addressed fraud hotlines, prevailing wages, “green” energy contracts, U.S. Housing and Urban Development procurement rules, and an article entitled “What if Oversight Officials Show Up at My Door?”.

Letter to Administration and Finance Secretary Kirwan Concerning ARRA Reporting

In September 2009, this Office wrote to Secretary Kirwan recommending the type of information that should be reported by ARRA fund recipients under Chapter 30 of the Acts of 2009. In addition to reporting information regarding spending, procurement, and job creation, this Office suggested that recipients also provide sworn statements reflecting the proper use of ARRA funding and non-collusion statements.

Grant Intervention

Research conducted by this Office identified that a private corporation and new recipient of federal funding remained unaware of specific ARRA reporting requirements. In fact, the corporation believed that as a private entity it would be exempt from ARRA reporting requirements. This Office informed the U.S. Department of Agriculture, the grantor agency. This Office understands that Agriculture planned to contact the grantee to clarify the matter.

Guide to Developing and Implementing Fraud Prevention Programs

Prompted by ARRA, in October 2009 the Office issued an updated guide to help recipients and grantees better understand fraud prevention and how to develop fraud prevention policies and programs. The update was necessary because of the fraud risk accompanying the significant spending associated with ARRA. Rapid program expansion without an increase in control, oversight, or reporting creates an opportunity for fraud, waste, and abuse. The guide provided recommendations for developing policies for fraud prevention programs and provided a list of resources for public officials to assist them in developing fraud policies and fraud prevention programs.

Timekeeping Best Practices for Employers with Employees with Multiple Positions

In November 2009, the Inspector General's Office issued an advisory regarding timekeeping best practices for employees with multiple positions. Proper time accounting and reporting is a sound business practice. With the introduction of ARRA accurate timekeeping is a federal reporting requirement if ARRA funds are received. This reporting is aimed at meeting the accountability and transparency objectives of ARRA and to accurately report the numbers of jobs retained or created by ARRA.

Based on this Office's experience, this Office recommended that a jurisdiction take the following preventive measures against time fraud generally and for ARRA funded programs:

1. Require that timesheets or the system of time reporting reflect actual time worked and include a signed employee attestation or accuracy certification statement.
2. Timesheets should be co-signed by the employee's supervisor or by another management level employee.
3. Management should periodically review performance and time records to ensure that both accurately and fully reflect performance and scheduling expectations.
4. Timekeeping policies and procedures should address multi-jurisdictional and multi-departmental situations. The rules should explain how time should be tracked and provide clear direction as to whether employee time can be flexible to accommodate other employment requirements, and if so, what approvals are necessary.

Letter to the Chairman of the Recovery Act Transparency Board

In November 2009, this Office informed the Board in writing that a private corporation had alleged to this Office that a federal agency it had applied for a grant from was not enforcing the "Buy American" provision contained in the ARRA legislation. The corporation alleged that the federal agency in question allowed the purchase of materials manufactured in Canada when the same products are manufactured in the United States. In 2010 the federal government approved the use of Canadian goods under ARRA.

Letter to Greenfield Police Department Regarding Procurement

In December 2009, the Office wrote to the Chief of Police in the Town of Greenfield regarding a “Byrne” grant received by the Town from the U.S. Department of Justice. The Office wanted to clarify with the Town that it intended to use M.G.L. c.30B and C. 149 to procure the goods and services identified in the grant application. The letter also reminded the Chief that if the department intended to conduct procurement directly that M.G.L. c. 30B required the Chief to obtain “delegated authority” from the town’s chief procurement officer.

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Effective and Ethical Contracting

IG Issues Advisory on Energy Management/Conservation Services

In January 2009, the Inspector General issued an advisory to help school districts in procuring energy efficiency and conservation consultants. The document was based on a review of 19 contracts with the consulting firm Energy Education Inc. (EEI) as well as the Office's collaboration with the city of Fitchburg and the state's Division of Energy Resources to develop procurement procedures for services to achieve energy cost savings.

The advisory recommended that school districts should perform due diligence in researching the various options for energy conservation and management service options before signing a contract with EEI or any other vendor. For example, by law, public utilities offer energy conservation services for no cost. In addition, the advisory stated that districts must procure energy management services in accordance with either M.G.L c.25A or M.G.L. c.30B. The advisory also recommended against using vendor-supplied contract specifications, RFP language, and contract provisions.

The advisory also alerted school district officials to several features of EEI's fees, software and contract language that officials should fully understand before entering a business relationship with the firm. In addition, the advisory stated promises of savings should be verifiable.

Municipal Golf Course Management

In June 2009 the Inspector General issued an advisory on municipal golf course management contracts. The advisory was based on a review of the contracts of the 63 municipal golf courses in the Commonwealth. In addition to the review, the Inspector General hired an independent certified public accounting firm to conduct financial and internal control audits on a sample of four municipal golf courses that were representative of the larger group. Many municipalities have moved towards privatizing municipal golf courses and this Office has received numerous procurement related inquiries. Additionally, previous audits and investigations of golf courses by Massachusetts oversight and law enforcement agencies, including this Office, have identified issues beyond procurement such as asset misappropriation, lack of internal controls, unreported related transactions, missing cash, poor record keeping, and poor management practices.

The advisory made numerous recommendations including: using strong vendor oversight by municipalities; improving cash management and control procedures; enforcing of construction or maintenance contract provisions; costing of vendor-paid utilities; using appropriate contract length; dealing with contract employees; and improving security, among others. Many of the recommendations can be applied not only to municipal golf course management, but also to any municipal business enterprise or contracts generally.

Municipal Vehicles Purchase

In January 2009, the Office advised the Plymouth County Commissioners in a letter that their contract for public service vehicles was not being properly monitored, and was leading to potential vendor abuse. In addition, it opened the door to illegal purchasing by members of the Plymouth County collective bid contract with MHQ Municipal Vehicles. The Office reviewed option items for the vehicles which were purchased pursuant to the contract yet were not included in the bid ("off-contract" items). The Office also reviewed MHQ's sales activity reports submitted to the Plymouth County Sheriff's Department for Ford public service vehicles. Based on the review, the Office found that the vendor was substantially increasing its revenue by supplying "off-contract" items. The Office advised that it is the dollar value of the "off-contract" item that determines which M.G.L. c. 30B procedures are applicable. The Office had previously warned Plymouth County about the need for greater contract oversight.

Health Safety Net Audit Unit

The Health Safety Net Audit Unit (formerly the Uncompensated Care Pool Audit Unit), created by Section 1 of Chapter 240 of the Acts of 2004, and most recently extended by Section 113 of Chapter 27 of the Acts of 2009, oversees and examines practices in Massachusetts' hospitals that include – but are not limited to – the care of the uninsured and the resulting free care charges. The Health Safety Net Audit Unit (the “Audit Unit”) provides assistance to the Inspector General on all issues related to hospital practices and costs, including those practices and costs affecting the Commonwealth's ability to provide and subsidize health insurance benefits to the uninsured.

Since the enactment of Chapter 58 of the Acts of 2006, “An Act Providing Access to Affordable, Quality, Accountable Health Care,” the Audit Unit has been tracking the transition from the Uncompensated Care Pool's block grant payment system to the Health Safety Net's Medicare-like payment system. In 2009, the Audit Unit reported on the transitional period that was implemented to help ease the transition to a Medicare-like system. It also reported on the beginning of the Medicare-like payments system, both where it is successful and where more work could be done to make the payment system more like Medicare. Now that the transition is over the Audit Unit has shifted its focus toward coding techniques, fraud prevention, and payments for inpatient and outpatient care.

Finally, as designated in Chapter 58, the Inspector General's Office participates in the activities of the Health Care Quality and Cost Council. The Inspector General continued to push for a greater understanding of health care cost drivers and solutions to rein those costs in. In testimony before the Joint Committee on Health Care Financing, the Inspector General called for immediate short-term cost controls to be put in place to hold costs down while long-term solutions are worked out. On numerous occasions, the Inspector General has advocated that the Division of Insurance has the authority to regulate health insurance premiums, including the authority to examine the costs underlying those premiums and to determine that insurers should adopt specific cost containment measures to prevent premiums from being excessive. The Inspector General has also called for any efforts on provider payment reform to include: (1) governmental authority to disapprove provider reimbursement rates; (2) measures designed to address the issue of the concentration of market power of providers and insurers in Massachusetts; and (3) protections against the pursuit of a Medicare waiver that could adversely affect Medicare recipients.

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Public Design and Construction

Since its inception, the Office has participated in the development of policies and procedures related to the state's public design and construction laws. In 2009, the Office continued efforts to provide guidance and training to public officials and others. The Office worked with the Division of Capital Asset Management (DCAM), the Massachusetts Department of Transportation (MassDOT), the Massachusetts School Building Authority (MSBA), the Department of Energy Resources (DOER), the Attorney General's Office and many local entities to establish best practices. In addition, the office completed many reviews concerned with public design and construction projects, methods and practices that were legislatively mandated.

Alternative Construction Delivery Methods

The 2004 construction reform law gave the Office the authority to determine whether a municipality is eligible to use alternative construction delivery methods, including construction manager (CM) at risk and design build. The Office also was charged with approving the alternative construction delivery method procedures to be used on certain building projects conducted by the following exempt entities: DCAM, the Massachusetts Port Authority (Massport), the Massachusetts Water Resources Authority (MWRA), the Massachusetts State College Building Authority, and the University of Massachusetts Building Authority, or public works projects conducted by the following entities: MassHighway, Massport, and the MWRA.

Construction Management at Risk Report

Pursuant to Chapter 193 of the Acts of 2004, "An Act Further Regulating Public Construction in the Commonwealth," the Office submitted a review of the construction management at risk (CM at risk) alternative delivery method to the legislature. This alternative construction method was introduced as an innovation in public construction that was based upon a construction delivery method successfully utilized in the private sector and advanced by Commissioner David B. Perini of the Division of Capital Asset Management (DCAM), as a member of the Special Commission on Public Construction Reform. The final version of the statute, M.G.L. c.149A, §§1-13, included the ideas of many other Special Commission members. Section 13 of the legislation incorporated a review to analyze and assess the delivery method after a five-year period.

The Office analyzed the experiences of local and state entities that have employed the alternative delivery method on their projects. Since 2005, there has been over \$1 billion of local CM at risk projects authorized. In addition, Massport and DCAM have both used CM at risk for a number of projects; for

example, DCAM is using the methodology to construct the new psychiatric hospital in Worcester, which is estimated to cost \$302 million.

Overall, CM at risk as a delivery method is becoming more popular at both the state and local level. DCAM also reports that its construction management procurement process continues to gain strength within the industry. In 2009, DCAM issued requests for proposals on eight CM at risk projects with an average contract value of approximately \$40 million. DCAM received an average of 14 CM at risk firm's responses per project. The CM at risk firms responding include a mix of large national and regional firms, as well as smaller CM at risk firms who concentrate on the local market, indicating significant interest in projects using the CM at risk delivery method.

Based on the experiences of those that have used CM at risk as presented in this review, most entities appear satisfied with the current process and expressed few disadvantages. Nevertheless, the Office identified some changes to the law that would correct unclear or problematic provisions and strengthen the public protections contained in the law. Those recommendations were included in the report to the legislature.

Design Build

In 2004, the Design Build delivery method was authorized as an option to be used for public works construction, reconstruction, alteration, remodeling, or repair projects estimated to cost \$5 million or more. Certain state entities must submit procedures to be reviewed. All others must submit an application to use the method to the Office of the Inspector General. The Office has prepared an application form to be completed, pursuant to Chapter 149A. In 2009, no local entities submitted an application to use design build; however, in accordance with Chapter 149A, the Office reviewed and approved MassPort's design build procedures.

Incentive/Disincentive Specification Use

The passage of Chapter 233 of the Acts of 2008, "An Act Financing An Accelerated Structurally-Deficient Bridge Improvement Program," allows bridge projects to be constructed using alternative methods, including incentives and disincentives if approved by the Inspector General. In 2009, MassDOT Highway Division (formerly MassHighway) and the Department of Conservation and Recreation submitted procedures for incentive/disincentive specifications to be used on two bridge projects. The Office cautioned that to achieve a successful project using incentives and disincentives it is critical to clearly define in the contract all of the terms and conditions related to how any design issues, change orders, construction conditions, etc. will be addressed in order to avoid conflicts related to the schedule and the payment of the incentive. The Office noted that it is incumbent on MassHighway to escalate its oversight function to ensure all contractual requirements are satisfactorily

completed in a quality manner. The Inspector General approved the procedures.

Contractor Evaluations

Prompted by a complaint about the business practices of a general contractor the office conducted a review of the contractor evaluation process. The office found, among other practices, that the contractor sometimes would abuse the evaluation process by misstating information or not providing complete information to get jobs, and by negotiating for higher evaluation scores in exchange for completing projects. The Office issued a letter to Commissioner David B. Perini of the Division of Capital Asset Management (DCAM) making recommendations to strengthen DCAM's contractor evaluation form, certification procedures and evaluation information verification. The Office also recommended that debarment procedures be made more responsive to the problems of underperforming contractors. As a result, DCAM implemented changes to the evaluation form and procedures.

Massachusetts School Building Projects

In 2009, the Office continued to work with the Massachusetts School Building Authority (MSBA) to develop model documents and procedures for use by entities seeking state financial assistance to build public schools. In addition, the Office participated in an advisory capacity on the owner's project manager review board.

Model Schools

In 2003, this Office recommended to then-Governor Romney that the commonwealth consider establishing a program to create prototype designs for state-financed public school buildings. It was this Office's opinion that having such designs available for municipalities would not only reduce the cost of design services related to state-financed public school buildings, but would also lead to reduced opportunity for inadequately or overly-designed schools, lead to a quicker review and approval by governmental bodies and state agencies, as well as allow opportunities to benefit from the application of value engineering and careful considerations of total life-cycle costs, energy efficiency, and environmental suitability.

In 2009, this Office and the MSBA advanced this worthy program. This Office suggested to MSBA to select successfully designed and constructed high schools as models to be replicated with limited changes rather than commission new designs. The Office then worked with the MSBA to ensure an open competitive selection of "Model School" designs. The MSBA also authorized additional state funding as an incentive to districts. The town of Norwood was the first district to take advantage of the program. Based on estimates of costs and time for the Norwood project, the model school

program is expected to result in savings of approximately \$20 million to town and state taxpayers and speed up completion by one year.

Gloucester Fire Headquarters Repair Project

The Office of the Inspector General conducted a review of the City of Gloucester's Fire Headquarters Repair Project that identified performance issues and unnecessary spending. The approximately \$270,000 project (\$230,000 construction cost and \$40,000 design cost) consisted of repairs meant to alleviate some of the more urgent problems facing a deteriorating 90 year old building with serious structural and systemic flaws.

This Office observed that despite this expenditure, water drainage issues remain. The Office recommended that the City immediately investigate possible cost recovery action against the architect and/or the engineer who worked for the architect.

In addition to the unresolved water drainage issues, this Office also identified the following issues:

- a. The construction contractor invoiced the City and the architect approved payment for \$1,000 in permit fees. According to the contract, the contractor did not have to pay City permit fees (as this was a municipal project) and according to the building department no fees had been collected.
- b. The original "ejector basin" specified for the basement, when delivered, would not fit through the basement door. As a result, the City had to approve a \$534 change order for a different two-part ejector that could be dismantled so it would fit through the door. This added cost should have been the responsibility of the architect and not the City.
- c. The contractor installed new electric sensors on the overhead doors for the bay floor. Post-installation, the contractor discovered that the door motors and the new sensors had incompatible technology. As a result, the City approved more than \$4,000 in change orders to install new motors compatible with the new sensors. Again, the added cost should not have been the City's responsibility. The architect should have performed due diligence to ensure that a new component would be compatible with an existing component.
- d. A concrete patch on the basement floor near the hose tower is already cracking and crumbling because the concrete did not bond to the subsurface. This is defective work that should have been identified as a punch list item before contract close-out and before the City released all retained funds to the contractor.
- e. The construction contract required concrete testing for any new concrete placement. Documents provided by the City to this Office do not indicate

that the contractor performed testing and staff questioned by this Office could not recall any testing being performed or the contractor obtaining concrete samples for testing. Besides being a contract requirement, this testing is required to ensure that the concrete is of adequate strength and durability for use on the bay floor.

The Office recommended to the City that cost recovery action be initiated where appropriate and that the contractor perform any repair work under the contract's warranty language where necessary.

Bid Rigging on UMass Dartmouth Dormitory Project

In February 2008, this Office received a complaint involving the fire alarm procurement process connected to the renovation of the Cedar Dell dormitory buildings located on the campus of the University of Massachusetts Dartmouth (UMass Dartmouth). Specifically, it was alleged that a Vice President of Signet Electronic Systems, Inc., Norwell, MA (hereinafter Signet), a distributor of General Electric Security (GES)/ Edwards Systems Technology (EST) (hereinafter GES/EST) fire alarm equipment, attempted to influence other distributors of GES/EST fire alarm equipment not to bid on Phase Two of the UMass Dartmouth dormitory renovation project or bid at list prices. The complainant alleged that this effort by Signet's Vice President of Sales amounted to an attempt to rig the bidding process and eliminate competition with respect to the purchase of fire alarm equipment for the renovated dormitory buildings.

Upon receipt of the complaint, the Inspector General conducted an investigation to determine if the allegations in the complaint were valid. The investigation confirmed the validity of the allegations.

UMass constructed Phase I and Phase II of the Cedar Dell dormitory projects pursuant to a Special Act of the Legislature that permitted them, with permission from the Governor, to utilize an alternative mode of procuring design and construction. This Office found that the fire alarm procurement process in Phase II of the dormitory project was the object of bid rigging. And, further, UMass's authority to utilize an alternative procurement methodology did not extend to also waive public safeguards in the law on the use of proprietary (brand name) specifications or to otherwise curb competition.

Dollar One Procurement Process

The Office of the Inspector General, among others, filed bills and lobbied extensively to eliminate the so called "dollar one" issue in the public building construction law, in an attempt to promote efficiency in government and cost effective administration. Effective November 24, 2009, Chapter 166 of the Acts of 2009, section 30, amended M.G.L. c.149, §44A(2) to allow for the use

of sound business practices for the procurement of construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency, estimated to cost less than \$5,000. This amendment removes the previous requirement to solicit at least three written price quotations when procuring these services. The amendment also states that when procuring building construction of less than \$5,000 a record must be kept which, at a minimum, must include the name and address of the person from whom the services were procured.

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 Office 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 such appraisals to the Commissioner of the Division of Capital Asset Management (DCAM) for submission to the House and Senate Committees on Ways and Means and the Joint Committee on State Administration and Regulatory Oversight.

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

The Inspector General generally 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 analyses, 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 real property deals reviewed by the Office:

Worcester CitySquare Development: The Inspector General's Office reviewed amendments to the Worcester CitySquare Development Agreement, which governs the disbursement of up to \$89 million in public funds to the project. The revisions were sought after the private developer of the project failed to meet certain requirements in the original agreement due to adverse market conditions. The Office's review found that the proposed changes to the development agreement restructures the phasing, size and investment sequence of the project to accommodate the city's current expectations while retaining important safeguards and updating conditions under which the developer can receive public funds.

Springfield Technical Community College Assistance Corporation: The Office reviewed a proposed loan agreement and other documents related to a \$400,000 loan to be used for tenant improvements related to the Liberty Mutual lease and other capital projects. The review found that

the terms and conditions of the loan are consistent with the purposes of the Springfield Technical Community College Assistance Corporation's (STCCAC) authorizing legislation and provide safeguards to all parties. The Office also reviewed STCCAC's proposed extension of its contract with its property manager. The Office recommended that the STCCAC conduct a competitive procurement process for a new contract rather than extend the expired agreement.

MWRA Storage Tank and Pump Station: The Office reviewed the process used by the MWRA to select a parcel of privately-owned land to be used to construct an underground covered water storage tank and pump station. The original selection was done in 2002, but the parcel was never acquired, nor was construction started on any other parcel. The Office determined that the MWRA conducted a sound process and that the site was still appropriate for use currently.

Below are a few examples of legislatively mandated disposition agreements the Inspector General reviewed in 2009:

Fisher Hill Reservoir: The Office reviewed documents related to the transfer of the former Fisher Hill Reservoir from the state to Brookline. Chapter 20 of the Acts of 2008 called for the parcel to be used for open space or active or passive recreation and would allow for a portion of the parcel to be used for construction of a municipal storage facility. The review determined that the disposition was consistent with all relevant legislation.

Westport Land: The Office reviewed documents related to the transfer of a parcel of land in Westport to E. Peter Haley pursuant to Chapter 274 of the Acts of 2008. The transfer contained 1,174 square feet. The Office approved the appraisal and determined the deed to be consistent with the terms and conditions of the authorizing legislation.

The following are some examples of appraisal reviews conducted by this Office:

Sandwich Parcel Exchange: The Office reviewed documents related to the appraisals of two parcels of land in the Town of Sandwich pursuant to Chapter 198 of the Acts of 2007. The exchange was between the Division of Fisheries and Wildlife and the Department of Fish and Game, and the Nye Family of America Association, Inc. The Association's land appeared to be of greater value.

Randolph Land Exchange: The Office reviewed documents related to the appraisals of two vacant land parcels in Randolph, pursuant to Chapter 240 of the Acts of 2002. The exchange was between the Division of Capital Asset Management and the Hart Family Limited Partnership. The Office approved the appraisal methodology for both parcels.

Inspector General Review Results in Revenue to the Town of Stoneham and the MBTA

Based on an Office of the Inspector General review, the Town of Stoneham and the Massachusetts Bay Transportation Authority (MBTA) will generate more than \$100,000 during the next three years from private parties that formerly used public property without permission. The review was prompted by a complaint from a Stoneham resident.

In April 2009, the Office notified the Town of Stoneham that its long-standing practice of allowing abutters to use public land for private purposes constituted trespass, exposed the Town to legal and financial liability, and denied the taxpayers reasonable compensation and the benefit of a fair, open, and accountable public process.

The land in question consists of an old railroad right-of-way (ROW) now owned by the Town. For almost 25 years, the Town had not effectively managed the ROW for the taxpayers. Based on the findings and recommendations of the Office, the Town began working with the MBTA to develop a mechanism to legally and fairly allow the use of sections of the ROW.

The MBTA, as the agent for the Town, will enter into "license" agreements with those parties currently trespassing on or wishing to use the ROW. These will be one-year revocable agreements. The Town and the MBTA are using short-term licenses because of the expectation that a "bike trail" may be constructed along the ROW that will require the use of the property in question.

These license agreements are expected to generate more than \$16,000 per year. The MBTA is also requiring the payment of the equivalent of three years "back rent" from those abutters who have used the ROW illegally and now wish to enter into license agreements. This back rent could generate nearly \$50,000.

Andover Removes Private Business from Town-owned Land

The Inspector General received a complaint regarding a private business using town-owned land in Andover. The town had not granted permission to the private business to use the land and was not being compensated for the use of the land. The Inspector General informed the town of the complaint and the town is taking action to end the encroachment. Barriers and signage will also be erected in the spring of 2010.

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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 offering a "call-in" program to respond to 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 real property and other tangible surplus supplies.

Training and Professional Development

The Inspector General's Office administers the Massachusetts Certified Public Purchasing Official Program (MCPPO), which the Office created thirteen years ago. The training program is designed to develop the capacity of public purchasing officials to operate effectively and promote excellence in public procurement and more recently to assist the members of the private sector in meeting requirements for certification as Designers and Owner's Project Managers for the Massachusetts School Building Authority.

Approximately 800 participants consisting of town, city and state employees as well as members of the private sector attended MCPPO courses and presentations in 2009, bringing the total number of participants since 1997 to approximately 9,000.

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 state and local procurement processes.

The MCPPO Program offered three 3-day seminars throughout the year: "*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 & 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; "*Design & 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. During 2009 the MCPPO Program also offered the two-day “*Charter School Procurement*”, which assists charter schools in satisfying the requirement (Section 11 of Chapter 46 of the Acts of 1997) that certain charter school administrators earn a MCPPO certificate, the “*Advanced Topics Update*” seminar and the one-day “*Construction Management at Risk Under M.G.L. c.149A*” seminar.

The Inspector General’s four-day course, introduced in January 2007 and held exclusively for members of the private sector, was presented in March, June, July, October and December of 2009. This course entitled, “*Certification for School Project Designers and Owner’s Project Managers*” is presented in response to regulations promulgated by the Massachusetts School Building Authority (MSBA) that require public school designers and owner’s project managers be certified in the MCPPO program.

In December 2009, the Inspector General incorporated video conferencing into the MCPPO Program to provide MCPPO courses to people at a number of different locations. The first video conferencing option offered was well regarded by those that participated. More video conferencing sessions are scheduled for 2010.

Outreach

In 2009, the Inspector General’s Office provided speakers on various topics in public procurement law for the Massachusetts Association of Public Purchasing Officials (MAPPO) Spring Conference, the Massachusetts Association of Treasurers and Collectors, STAR Expo 2009, Cape Cod Purchasing Officials Association, and Massachusetts Continuing Legal Education, Inc. (MCLE).

Inquiries, Complaints and Protests

In 2009, the Office responded to 3,201 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 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.

The Inspector General also continued to publish the “Procurement Bulletin,” a newsletter distributed to about 2,030 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 topics covered in 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 by-laws and charter amendments to ensure compliance with state law. Specifically, the Inspector General’s Office offers input on whether such by-laws and charter changes comply with the Uniform Procurement Act, M.G.L. c.30B of the General Laws. In 2009, the Office reviewed two of these by-law and charter amendments.

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Legislative Reviews

The Office of the Inspector General reviewed and commented on numerous pieces of legislation during the 2009-2010 legislative session. In addition, the Office regularly assisted individual legislators in both the development of legislation specific to the districts they represent, as well as legislation that affected the operation of state and local government. The Office is often called on by legislators to meet with and provide guidance to municipalities on matters not related to legislation. The Office also responds to requests from the governor's Office to review legislation that has been passed by the legislature and is awaiting the governor's signature.

The Inspector General testified before legislative committees on issues related to economic stimulus, municipal relief, health care, ethics, and public cost-savings initiatives. In all cases, the main theme involved transparency and safeguards ensuring appropriate oversight of taxpayer dollars, while allowing for innovation.

In addition to commenting on specific legislation, the Office sent to the legislature a general set of guidelines for lawmakers as they look to craft legislation dealing specifically with land disposition bills that seek to exempt certain property transactions from M.G.L. c.7 or M.G.L. c.30B. In letters sent to the House and Senate Committees on Bonding, Capital Expenditures and State Assets, and to the Joint Committee on Municipalities and Regional Government, this Office called for all such bills to: state the purpose of the disposition and any use restrictions; identify the property to be conveyed, including the precise location and total acreage; require an independent appraisal establishing fair market value of the property; require the private party to pay no less than the established value; require the private party to pay all direct transaction costs; require the property to revert in the event the property is not used for the intended purpose; and require that the disposition be subject to disclosure requirements.

This Office also sent letters to lawmakers strongly opposing bills that sought to weaken the Uniform Procurement Law, M.G.L. c.30B.

The Inspector General reviewed and provided comment on the following in the 2009-2010 legislative session:

2009

- CHAPTER 20, "AN ACT AUTHORIZING THE DEPARTMENT OF FISH AND GAME TO ACQUIRE CONSERVATION RESTRICTIONS IN AND TO LANDS OWNED BY THE CITY OF FITCHBURG";
- CHAPTER 36, "AN ACT AUTHORIZING THE EXCHANGE OF CERTAIN PARCELS OF LAND IN THE CITY OF WOBURN";

- CHAPTER 39, “AN ACT RELATIVE TO THE TOWN OF NORTON WATER AND SEWER COMMISSION”;
- CHAPTER 55, “AN ACT RELATIVE TO THE DISPOSITION OF PROPERTY IN THE TOWN OF WESTBOROUGH”;
- CHAPTER 59, “AN ACT RELATIVE TO DEVELOPMENT IN THE TOWNS OF MONSON AND TEMPLETON”;
- CHAPTER 90, “AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE CERTAIN TOWN-OWNED PROPERTY”;
- CHAPTER 91, “AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE CERTAIN TOWN-OWNED PROPERTY”;
- CHAPTER 93, “AN ACT AUTHORIZING THE TOWN OF NATICK TO LEASE CERTAIN PROPERTY”;
- CHAPTER 103, “AN ACT RELATIVE TO A NEW PUBLIC SAFETY FACILITY LEASE IN THE TOWN OF BURLINGTON”;
- CHAPTER 116, “AN ACT AUTHORIZING THE TOWN OF SANDWICH TO EXCHANGE CERTAIN PARCELS OF LAND”;
- CHAPTER 134, “ AN ACT AUTHORIZING THE TOWN OF NORTON TO TRANSFER CERTAIN PARK LAND”;
- CHAPTER 135, “AN ACT AUTHORIZING THE RELEASE OF CERTAIN RESTRICTIONS ON A PARCEL OF LAND IN THE TOWN OF NANTUCKET”;
- CHAPTER 138, “AN ACT RELATIVE TO THE DEVELOPMENT OF CERTAIN TOWN LAND IN THE TOWN OF CHATHAM”;
- CHAPTER 155, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO TRANSFER AN EASEMENT IN CERTAIN LAND IN THE TOWN OF NATICK TO MICHAEL AUDETTE”;
- CHAPTER 156, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY, LEASE AND GRANT EASEMENTS WITH RESPECT TO CERTAIN LAND IN THE TOWN OF UXBRIDGE”;
- CHAPTER 157, “AN ACT RELATIVE TO A CONVEYANCE OF LAND IN THE TOWN OF EAST LONGMEADOW”;
- CHAPTER 160, “AN ACT AUTHORIZING THE TOWN OF HARWICH TO CONVEY CERTAIN RECREATIONAL LAND”;
- CHAPTER 162, “AN ACT PROVIDING FOR THE TRANSFER OF CERTAIN STATE REAL PROPERTY TO THE TOWN OF HOPKINTON”;
- CHAPTER 163, “AN ACT AUTHORIZING THE ROSE FITZGERALD KENNEDY GREENWAY CONSERVANCY, INC. TO LEASE CERTAIN PROPERTY TO THE NATIONAL PARK SERVICE”;
- CHAPTER 164, “AN ACT RELATIVE TO THE LEASING OF THE HORSENECK POINT LIFESAVING STATION IN THE TOWN OF WESTPORT TO THE WESTPORT FISHERMEN’S ASSOCIATION”;
- CHAPTER 165, “AN ACT AUTHORIZING THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION AND THE TOWN OF KINGSTON TO EXCHANGE CERTAIN PARCELS OF LAND”;
- CHAPTER 168, “AN ACT AUTHORIZING AN EXCHANGE OF CERTAIN PARCELS OF LAND FOR MARTHA’S VINEYARD HOSPITAL”;
- CHAPTER 170, “AN ACT RELATIVE TO THE PROVISION OF SERVICES TO THE CITY OF CAMBRIDGE BY THE CAMBRIDGE ENERGY ALLIANCE”;
- H.2971, “AN ACT MAKING TECHNICAL CORRECTIONS TO THE PUBLIC CONSTRUCTION REFORM LAW”;
- H2991, “AN ACT RELATING TO BULK PURCHASING BY EDUCATIONAL COLLABORATIVE”;

- H3470, “AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN PARCELS OF LAND IN THE CITY OF REVERE”;
- H. 3701, “AN ACT ESTABLISHING THE CENTER POND RESTORATION AND PROTECTION DISTRICT IN THE TOWN OF BECKET”;
- H. 3814, “AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN PARCELS OF LAND IN THE CITY OF REVERE”;
- H4045, “AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN PARCELS OF LAND IN THE CITY OF REVERE”;
- H4142, “AN ACT PROVIDING FOR REPORTING DATES OF CAPITAL GAINS REVENUE AND TRANSFERRING CERTAIN FUNDS”;
- H4193, “AN ACT RELATIVE TO THE LEASE OF DAY AGRICULTURAL AND CONSERVATION LAND IN THE TOWN OF WESTFORD”;
- H4261, “AN ACT AUTHORIZING THE CITY OF METHUEN TO LEASE THAT BUILDING FORMALLY KNOWN AS THE "DAV BUILDING" TO THE HEAD START PROGRAM OF THE GREATER LAWRENCE COMMUNITY ACTION COUNCIL”;
- H4317, “AN ACT RELATIVE TO CONSTRUCTION CONTRACTS IN THE TOWN OF ANDOVER”;
- H4357, “AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN STATE LAND IN THE TOWN OF SHARON”;
- S768, “AN ACT RELATIVE TO THE DISPOSAL OF MUNICIPALLY OWNED VACANT PROPERTY”;
- S1397, “AN ACT ALLOWING THE TOWN OF WARE TO SELL THE OLD COUNCIL ON AGING BUILDING AND ITS PROPERTY AT AN AUCTION”;
- S1468, “AN ACT RELATIVE TO THE LEASING OF LAND PARCELS IN BOSTON”.

2010

The following bills were reviewed in 2009 and became law in early 2010:

- CHAPTER 18, “AN ACT RELATIVE TO THE LEASING OF CERTAIN PARCELS OF LAND IN THE CITY OF BOSTON”;
- CHAPTER 20, “AN ACT AUTHORIZING THE TOWN OF CHARLTON TO ACQUIRE DAMS WITHIN THE TOWN, TO MAKE IMPROVEMENTS TO DAMS AND TO AUTHORIZE THE ASSESSMENT OF BETTERMENTS TO PAY COSTS ASSOCIATED THEREWITH”;
- CHAPTER 30, “AN ACT AUTHORIZING BERKSHIRE COMMUNITY COLLEGE TO LEASE CERTAIN LAND TO THE PITTSFIELD YOUNG MEN’S CHRISTIAN ASSOCIATION”;
- CHAPTER 38, “AN ACT RELATIVE TO CERTAIN AFFORDABLE HOUSING IN THE CITY OF BOSTON”.

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Legislative Recommendations: 2009-2010 Session

Bills Filed for the 2009-2010 Session

In November 2008 the Inspector General filed the following bills for the 2009-2010 legislative session:

House 9, An Act Relative to Chapter 30B

The bill comprises a thoughtful and practical approach to streamline and fine tune Chapter 30B. The proposal contains a cost-savings alternative to advertising in newspapers, a definition of sound business practices and authority to purchase from the Government Services Administration supply schedule. Certain other technical clarifications are also included.

House 10, An Act Relative to Interagency Collaboration

The bill authorizes the Office of the Inspector General to make staff and other assistance available to the State Ethics Commission.

House 11, An Act Relative to Retirement Board Members

The bill prohibits a person from serving as a member of a retirement board while receiving compensation or other remuneration from any retirement board.

House 12, An Act Relative to Public Procurement

The bill amends the false statements in public procurement statute, M.G.L. c. 266, §67A, to require that when a violation of criminal law occurs relating to procurement of supplies, services or construction, a vendor must notify the awarding authority within 30 days of its discovery of such occurrence. Also, a vendor would have to notify the awarding authority within 30 days if it discovers it received an overpayment.

House 13, An Act Authorizing Employees of the Inspector General's Office to Participate in Representative Town Meeting

The bill would allow officers and employees of the Inspector General's Office to run for the position of representative town meeting member.

House 14, An Act Establishing the Inspector General Recovery Fund

The bill would establish a trust fund for the Inspector General's Office to allow the Office to accept reimbursement for investigative costs when funds are recovered as part of a civil or criminal proceeding.

House 15, An Act Relative to Public Construction Thresholds

The bill would amend the Public Construction statute, M.G.L. c. 149, §44A(2), by allowing a public agency to use sound business practices for public construction contracts under \$5,000.

Listing of 2009 Reports and Publications

The Office of the Inspector General published dozens of reports and letters in 2009. The following documents are available on the Inspector General's Internet site www.mass.gov/ig:

- Letter to Tina Brooks, Undersecretary, Department of Housing and Community Development Regarding Proposed Changes to Chapter 40B Regulations, December 2009.
- Inspector General's Investigation Leads to Plea Agreement with Whittier Regional Vocational-Technical School Employee, December 2009.
- Legislature Repeals Dollar One Procurement Process for Building Construction, December 2009.
- Division of Insurance Health Plan Informational Hearings: Inspector General's Recommended Questions for Insurers Relative to Provider Contracting and Network Management, December 2009.
- Letter to City of Gloucester Mayor Carolyn Kirk Regarding a Review of the Fire Headquarters Repair Project, November 2009.
- Letter to Executive Director Katherine P. Craven Regarding the Town of Brewster's School Buildings, November 2009.
- Letter to John R. Hitt, Esquire, Regarding 2005 Report on the Town of North Attleborough Electric Department's Use of Certain Bond Funds, November 2009.
- Letter to City of Gloucester Mayor Carolyn Kirk Regarding Timekeeping System Vulnerabilities, November 2009.
- Letter to Chairman of the Zoning Board Robert Cadle and Chairman of the Board of Selectmen Peter S. Cunningham, Town of Groton, Regarding Certain Practices of the Zoning Board of Appeals, November 2009.
- Letter to Chelmsford Town Manager Paul Cohen Regarding a Real Property Disposition, November 2009.
- Letter to Representative Benjamin Swan, Regarding a City of Springfield Bus Transportation Contract, November 2009.
- UMASS Dartmouth Dormitory Renovation Project, October 2009.

- Letter to Francis J. Casey, Chairman, Board of Selectmen, Town of Carver, Regarding Operation and Management of the Carver Council on Aging, October 2009.
- Communication from Inspector General Gregory W. Sullivan to the Health Care Quality and Cost Council, October 2009.
- Inspector General Gregory W. Sullivan's Testimony before the Joint Committee on Health Care Financing, October 2009.
- Inspector General Review Results in Revenue to the Town of Stoneham and the MBTA, October 2009.
- Experience of Massachusetts Public Agencies with Construction Management at Risk Under M.G.L. c. 149A, October 2009.
- Massachusetts Attorney General Files Suit against 40B Developer Following Inspector General Investigation, September 2009.
- Letter to Tina Brooks, Undersecretary, Department of Housing and Community Development, Urging Reviews of Completed 40B Projects Relative to Excess Profits, September 2009.
- Joint Investigation Conducted by the Massachusetts Office of the Inspector General, the Massachusetts State Police and the Massachusetts Attorney General's Office Leads to Two Convictions, July 2009.
- Letter to William E. McGonagle, Administrator, Boston Housing Authority, Regarding Allegations of Fraud and Bid-rigging, July 2009.
- Letter to Dr. Arthur Stellar, Superintendent, Taunton Public Schools, Regarding Taunton's Energy Management Services Contract, June 2009.
- Letter to David Ragucci, Town Administrator, Town of Stoneham, Regarding the Control and Use of a Former Railroad Right of Way in Stoneham, April 2009.
- Massachusetts Inspector General Helps Commonwealth Recover \$200,000 from a Medical Supply Vendor, March 2009.
- Ongoing Analysis of the Health Safety Net Trust Fund: Medicare Based Claims Payment System Implementation, March 2009.
- Review of the DNA Testing Operations and the Associated Management Structure of the Executive Office of Public Safety and Security's Forensic Services Group, January 2009.
- Letter to Plymouth County Commissioners Regarding Purchasing Public Service Vehicles, January 2009.

- Inspector General Helps Commonwealth Recover Nearly \$215,000 from a Social Service Provider, January 2009.