Office of the Inspector General

Commonwealth of Massachusetts

Gregory W. Sullivan
Inspector General

2010 Annual Report

May 2011

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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 2010:

- A case that resulted in a Methuen contractor pleading guilty to government purchasing violations and making a false claim to a government agency;
- A review of the Massachusetts Bay Transportation Authority's Corporate Pass Program led to actions to recoup over $500,000;
- An investigation into vehicle registration abuse led to the collection of $200,000 from tax evaders.

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

Sincerely,

Gregory W. Sullivan

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Inspector General

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2010 Inspector General Council

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Introduction

The Massachusetts Office of the Inspector General (OIG) 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.

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. 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.

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 2010, 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 and district attorney's offices.

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.

Methuen Contractor Pleads Guilty For Manufacturing False Bids

An investigation by the Office of the Inspector General resulted in a Methuen contractor pleading guilty to 12 counts of government purchasing violations and 12 counts of making a false claim to a government agency. The OIG worked with the Office of the Essex District Attorney, the Methuen Police Department and the FBI on the investigation.

Christopher D. Medugno was arraigned in Salem Superior Court. Each count carries up to five years in state prison and a $10,000 fine.

As a result of winning the bids, Medugno did work for the Methuen School Department, the Methuen Housing Authority, and the Methuen Department of Public Works. The alleged bid-rigging took place from 2004 to 2009 and the total amount Medugno received as a result of the allegedly manufactured bids is in excess of $95,000.

In order to win the bids, Medugno would allegedly forge two bids from competitors who in some cases weren't even bidding on the job and then submit his own bid, which would be lower than theirs.

The investigation is ongoing and more indictments of others allegedly complicit in the process are expected.

Former Seekonk School Teacher Charged with Larceny Over $250 and Violation of the Conflict of Interest Law

A joint investigation of Jean Lamoureux (Lamoureux), a former teacher at the Hurley Middle School in Seekonk, by the Office of the Inspector General, the Office of the Attorney General and the Massachusetts State Police resulted in Lamoureux being charged with one count of Larceny over $250.00, M.G.L. c. 266, §30(1) and five counts of violating the Commonwealth's prohibition against a public employee soliciting or accepting gratuities of substantial value found in M.G.L. c. 268A, §3(b).

In October 2010, Lamoureux received the following disposition in Taunton District Court:

Offense 1 - Larceny Over $250.00 M.G.L. c. 266, §30(1)

- Sufficient facts found but continued without a finding until 10/2/12
- Restitution to the Hurley Middle School in the amount of $1,840

Offense 2 – Public Employee Accept/Solicit Gift M.G.L. c. 268A, §3(b)

- Sufficient facts found but continued without a finding until 10/2/12
- Restitution to the Hurley Middle School in the amount of $5,219

Disabled Person's Parking Placard Abuse

In March 2010, the OIG initiated its second investigation involving allegations of misuse of handicapped parking placards in the downtown Boston area by able-bodied individuals. The first investigation, which was begun in the summer of 2006, was a joint investigation conducted by this Office in conjunction with the Massachusetts State Police, the Registry of Motor Vehicles, and the Boston Transportation Department.

The more limited 2010 investigation was initiated to determine whether able-bodied individuals were continuing to abuse handicapped parking placards belonging to others in an attempt to avoid paying for parking.

In July 2010, the OIG, working with the Boston Police Department, conducted a surveillance operation, covering many city blocks. A Boston Police Officer stopped motorists observed using handicapped

placards and asked them to demonstrate that the placard holder was in the vehicle. Five citations and four parking tickets were issued during this operation.

This 2010 focused investigation demonstrated that handicapped placard abuse by able bodied individuals continues to be a problem in the downtown Boston area.

Misappropriation at the Holyoke Collector's Office

In 2009, Holyoke notified the OIG that the City's external auditor, Melanson Heath & Co., working in conjunction with the Collector had identified approximately $82,000 in missing funds from the Collector's office for 2008. The OIG has established that at least $64,158.92 is unaccounted for in the period of July – December 2008.

The OIG investigation revealed that the former Deputy Collector, who according to the Collector's office earned a City salary of approximately $37,000 in FY2008, gambled almost $42,000 at two New England casinos during the same period in 2008 (July – December) initially identified by the City's external audit firm Melanson Heath & Co. (and later confirmed by the OIG) as the period when funds appeared to be missing from the Collector's office.

The OIG investigation disclosed that the former Deputy Collector had sole responsibility to handle and deposit delinquent excise and parking ticket payments into City bank accounts. Beginning around the time the former Deputy Collector's gambling activity began, the recordkeeping for these accounts became shoddy and so incomplete that reconciliations could not subsequently be performed.

The OIG noted the following internal control deficiencies that allowed the suspected misappropriation to occur: 1) Significant gaps in the record keeping system of the Collector's office made it impossible to prove beyond a reasonable doubt that a theft of as much as $82,000 actually occurred; 2) The failure of the Collector to implement procedures that require all funds collected be deposited in the bank no later than the next business day; 3) The failure of the Collector to require that all funds collected be deposited no later than the next business day allowed the former Deputy Collector to keep unknown amounts of cash unsecured in the Collector's office which in turn allowed other employees of the Collector's office access to that cash; and lastly, 4) The lack of any witnesses who could state that (s)he had observed the former Deputy Collector or anyone else misappropriating the money.

The OIG made a number of recommendations. City employees who handle or manage cash and other revenue collections should be required to account for their time and attendance and should be

instructed that they must maintain high ethical standards and appropriate conduct. The City should also consider bonding and/or insuring all, rather than just some, Collector's office employees and adhering to any insurance requirements that may be applicable to this bonding such as routine auditing and drug testing. The City should also require annual anti-fraud and ethics training for all employees that handle cash and other collections. The City should also institute a more thorough review/background check process for the hiring of new employees for responsible positions such as persons who collect and handle City funds. The Collector should consider conducting competitive procurements for banking and deputy collector services. The Collector should implement reasonable internal and management controls.

Springfield Towing Contract

The OIG issued a report regarding its review of both the towing contract between the City of Springfield (City) and CF, Inc (D/B/A the Springfield Towing Alliance (STA)) and an associated compliance review of the contract conducted by the City Auditor. This OIG agreed to conduct this examination based on a request made by the State Auditor in the fall of 2008.

The OIG in reviewing the towing agreement and the City Auditor's report determined that the City was within its authority to terminate, without cause, the contract with the STA. However, the biggest problem the OIG observed through this review was the apparent inability of the two parties to resolve differences in a timely and cooperative manner. The OIG also observed that major issues relating to storage fees on "police holds" that were identified early in the contract term, were never mutually resolved. The same is true of concerns raised between the parties for the towing of vehicles from the previous contractor's lot. The parties should have been more cooperative and proactive in addressing these significant financial, reporting and operational issues, prior to terminating the contract.

The lack of STA's adequate supporting documentation was reinforced throughout the City Auditor's report and included such concerns as the following failures on the part of the STA: failure to submit complete tow forms to the Police Department; failure to provide complete and timely vehicle status and inventory reports; failure to submit copies of final bills to the Police Department; failure to provide sufficient notice of abandonment and documentation of disposal of salvaged or auctioned vehicles; and, failure to provide the Police Department with remote access to tow data and GPS functionality.

The most troubling concern the OIG found in reviewing the City Auditor's report was the lack of adequate disclosure regarding the long

standing controversy over storage fees for vehicles on police hold. The City Auditor indicated in his report that the STA began taking unauthorized credits as early as May 2007 and that in July/August of 2008 the City demanded payment for all previous credits taken without authorization. Aside from incorporating a partial statement from a response received from the STA that suggested that the credits were a way for the STA to balance accounts receivable against accounts payable there was no further commentary regarding the long standing storage fee dispute. It was this storage fee dispute that was the actual catalyst for the credits taken by the STA.

The OIG review focused on the towing activities that occurred during the fifteen (15) months that were covered through the City Auditor's report. The City and the STA need to reconcile the tow activities for the final three months of the contract in order to arrive at a final accounting. The City and the STA also need to identify and agree on the pertinent responsibilities for the associated revenue and liability attributions or payables/receivables between the two parties that would encompass the entire contract term.

The OIG also recommended numerous safeguards that should be put in place under a new contract. Contract compliance must be monitored and terms and conditions must be clearly articulated.

Auburn Highway Department

The Town of Auburn requested the OIG review issues concerning the Auburn Highway Department (AHD). The Town forwarded to the OIG a preliminary review conducted by an outside legal counsel after the issues had been brought to the Town's attention. Specifically, the concerns about AHD included cash control lapses, procurement law violations, and inappropriate payroll/timekeeping practices.

The OIG found that the AHD lacked formal written policies and procedures for managing many practices fundamental to AHD operations including work order issuance, overtime use, cash management, inventory control and procurement. Moreover, the AHD violated state procurement law, failed to follow sound business practices, and appeared to have violated state municipal finance and conflict of interest laws.

The OIG made numerous recommendations to the AHD. The AHD should request ethics and conflict of interest training from the State Ethics Commission. The OIG also can provide AHD with anti-fraud training. AHD must follow Chapter 30B, the Uniform Procurement Law, in acquiring and disposing of goods and services, and employees should be trained to do so. The Town should also develop written procedures for the disposal of property valued at less than $5000. The AHD should immediately implement appropriate cash controls, and

remit any remaining unauthorized petty cash funds to the Town treasury, and deposit new funds with the Town in a timely manner. Internal controls must be tightened and new time reporting procedures should be instituted. Town managers should be aware of state public record retention requirements. The AHD should identify in writing where AHD has responsibility for maintain drainage areas.

Boston Fire Department Disability Pension Abuses

Two former Boston firefighters accused of faking injuries in order to collect enhanced, tax-free disability pensions were charged by a Federal Grand Jury 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 Federal Bureau of Investigation and 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. Claiming a work-related injury automatically triggered the process by which Arroyo received injured leave benefits.

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 but failed to return.

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 Fire Chief temporarily earns the Deputy Fire 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 accidental disability retirement application was being scrutinized.

As a clerk in the Boston Fire Department's Personnel Department, Erika Boylan, a Boston resident, was responsible for processing accidental disability retirement (ADR) applications. She could also allow firefighters to remain on injured leave – a more-lucrative status – by delaying those ADR applications. The Grand Jury charged Boylan with lying when she testified that no one had ever asked her to slow down the ADR 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. The trials for Arroyo and Famolare will likely take place in 2011.

DESE's Practice of Authorizing the Destruction of Records in the Process to Grant Charters to Massachusetts Charter Schools is Halted by the Records Conservation Board

This Office sought the opinion of the Records Conservation Board on a matter pertaining to records retention at the Department of Elementary and Secondary Education's (DESE) Charter School Office (CSO). Entities established by the general court to serve a public purpose may seek the opinion of the Records Conservation Board when in doubt as to whether certain materials are public records and therefore must be kept as a public record in accordance with a retention schedule developed by the Massachusetts Archives.

The Records Conservation Board clarified for the CSO that it must retain the records created by reviewers (public employees and private citizens) of charter school applicants. Specifically, the DESE CSO must retain these records for five years after the vote by the Board of Elementary and Secondary Education.

This Office found that the CSO had not been retaining certain reviewer's evaluation documents thwarting any sound oversight of the integrity of the charter school application process. To emphasize the importance of the matter, the Records Conservation Board created a new category of the Records Retention Schedule specifically for Charter School Application Records which underscores the importance of ensuring documentation for post audit and review.

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.

OIG Investigation Leads to $275,000 Medicare Recovery

An investigation by the Inspector General's Office led to the recovery of $275,000 in Medicare Payments from Hines Dermatology Associates, Inc., a Massachusetts based corporation with a practice and laboratory in Providence, R.I. Between mid February 2004 and early October 2007, Dr. Yvonne C. Hines, M.D., president and medical director of Hines Dermatology Associates, Inc., and Dermatopath Labs falsely represented that some patients required additional and more expensive testing and thus were eligible for reimbursement by Medicare, when in fact, they were not necessary.

The Inspector General's Office referred the matter to the U.S. Department of Health and Human Services Office of the Inspector General (HHS-OIG). Working with the HHS-OIG and the United States Attorney's Office it was determined that unnecessary pathology services were being performed at the Rhode Island office and then billed to the federal government.

In addition to the recovery, Dr. Hines, was also required to enter into an Integrity Agreement with HHS to ensure compliance with regulations, directives and programs associated with Medicare, Medicaid, and all other federal health care programs.

A Review of the Massachusetts Bay Transportation Authority's Corporate Pass Program Led to Actions to Recoup Over $500,000

The OIG reviewed the MBTA's Corporate Pass Program where corporate customers can purchase fare cards also known as Charlie Cards in bulk for their employees and/or clients. The OIG identified system weaknesses that posed a risk for fraud, waste, and abuse including poor inventory control of cards and a policy to activate cards for use before payment is received. As a result, the OIG found that over an approximately two year period the MBTA lost $686,000 in card revenue. The losses stemmed from an MBTA policy to provide extra Charlie Cards also known as unassigned cards to corporate

customers. These unassigned cards are activated for use in the MBTA system although customers have not yet paid for the cards. The MBTA intended unassigned cards to be used by corporate clients on an as needed basis. Upon assignment or use by corporate customers (for example, providing a card to a new employee), the customer had a responsibility to inform the MBTA of the card assignment so that the MBTA could remove the card from its unassigned status and bill the customer for the cost of the monthly card. However, customers failed to routinely inform the MBTA when they assigned cards and the MBTA did not have a mechanism to review the use of unassigned cards to assure that they had not been placed in use by customers before the cards had been paid for. The MBTA had placed with corporate customers approximately 41,000 unassigned cards with an annualized value of more than $20 million. Prior to the OIG review, the MBTA's vendor for the management of the Corporate Pass Program had not been instructed to monitor the potential use of unassigned cards.

The OIG, with the assistance of the Office of the State Comptroller, tested two unassigned cards over a three month period by using these cards to access the MBTA system (various subway stations). This usage went undetected until the OIG brought it to the attention of the MBTA.

As a result of the review and the test of unassigned cards, the OIG recommended to the MBTA that controls be improved, that unassigned cards be monitored (the MBTA stated that for customer convenience it did not want to discontinue the use of unassigned cards), that customers be made aware that they would be financially responsible for any unauthorized use of these cards, that an audit of the program vendor be performed, that requests for unassigned cards be carefully reviewed so that customers do not hold large numbers of unassigned cards, and that instructions given to the vendor by the MBTA be in writing rather than orally as had been prior practice.

Based on the OIG's review, the MBTA took action to recoup $512,000 from corporate clients. By the release of the OIG report, the MBTA had collected nearly $250,000 of the outstanding amount. The MBTA also put a corrective action plan in place to address the identified control weaknesses, contracted with an accounting firm to audit the vendor for the pass program and has agreed to review the utility of using unassigned cards. The MBTA also replaced the manager of the fare program and expressed its "sincere appreciation" to the OIG for "taking the time to conduct such a thorough audit" and believes that the administration of the Corporate Pass Program will be improved as a result.

Investigation into Vehicle Registration Abuse Led to the Collection of $200,000 from Tax Evaders

The OIG issued a report in March 2010 that outlined an investigation conducted in cooperation with the Massachusetts Department of Revenue and the Registry of Motor Vehicles that focused on Massachusetts residents purchasing and registering large recreational vehicles (RVs) through Limited Liability Companies (LLCs) established in the State of Montana. Massachusetts residents use these Montana based LLCs to avoid paying Massachusetts sales taxes, excise taxes, registry fees, and having safety and emissions inspections for their vehicles. This investigation began with the identification of a sample of 23 Montana LLCs with Montana registered RVs whose owners appeared to be legal Massachusetts residents. At the time of the report's release, the Department of Revenue had collected nearly $200,000 in evaded taxes and began enforcement action against taxpayers for hundreds of thousands more. The OIG also recommended that both the Department of Revenue and the Registry of Motor Vehicles continue their enforcement efforts including, but not limited to, requiring RV dealerships in Massachusetts to report purchases by out-of-state LLCs to the Registry. The OIG has also been cooperating with law enforcement agencies in other states who are investigating the use of Montana based LLCs to evade or avoid taxes in their states.

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Audit and Oversight

Review of the City of Peabody's Fuel Management Practices

In January 2010, the OIG issued its findings and recommendation to the City of Peabody regarding a review of the fuel management system maintained by the Department of Public Services. This management system is used to fuel City-owned or maintained vehicles. The OIG stated that the City could improve its current system "to better manage and safeguard their fuel supplies in a period of rising fuel process and tight municipal budgets." Specifically, the OIG found that the City could use its electronic fuel management system more effectively by taking better advantage of the system's reporting and transaction tracking capabilities. The OIG also recommended that the City not permit "exceptions" to system safeguards by certain employees and that all users be required to enter accurate information during each transaction at the fuel pumps. The OIG addressed management system (software) upgrades, security measures such as installing security cameras at the fueling station, and the need for written policies and procedures for the use and management of the fueling system. The OIG recommended that the City implement the OIG suggestions as well as suggestions made by the City's external auditor when it reviewed the fuel management system in 2008.

Review of the City of Lynn's Fuel Management Practices

In January 2010, the OIG issued its findings and recommendation to the City of Lynn regarding a review of the fuel management system maintained by the Department of Public Works. This management system is used to fuel City-owned or maintained vehicles. The OIG stated that the City could improve its current system "to better manage and safeguard their fuel supplies in a period of rising fuel prices and tight municipal budgets." Specifically, the OIG found that the City could use its electronic fuel management system to its full potential by expanding the information included in system-generated transaction reporting, ensuring that all vehicles are tracked by the system, and that these transaction reports are reviewed for the purpose of identifying "red flags" of waste and abuse. For example, the OIG review found that the City allowed numerous exceptions to the fueling protocols, did not have automated safeguards in place to prevent the incomplete entry of information during fueling, allowed the entry of negative odometer readings, and failed to prohibit the use of the fuel pumps by employees who did have City vehicle assignments. The OIG also found frequent and consecutive fueling transactions by the same

employee, very low mile-per-gallon rates for certain vehicles that fuel regularly, and more than one employee fueling the same vehicle during the same time period. The OIG also recommended that the City fully implement recommendations pertaining to the fueling system made by the City's external auditor in 2003 – six years prior to the OIG review. The OIG also recommended that the City improve physical security at the fueling station and develop and use written procedures for fuel management.

Advisory: Municipal Fuel Management

In February 2010, the OIG issued an advisory for municipalities, school districts, and other jurisdictions that purchase fuel (gasoline etc.) and/or that maintain fuel pumps and management systems. The advisory recommended that all jurisdictions review their fuel purchasing practices for compliance with M.G.L. c.30B – the Uniform Procurement Act and to identify opportunities to improve fuel monitoring and control activities. The OIG issued this advisory in response to rising fuel prices and a series of allegations received by the OIG concerning possible fraud, waste, and abuse in the purchase and use of municipal fuel supplies. The OIG recommendations included: monitoring fuel management reports and/or credit card statements, employing automated auditing tools that are available with most fuel management software packages, improving security at fueling stations, tightening password and fueling key requirements, and curtailing the use of "master" keys and "exceptions" (i.e., no password needed for a fueling key). The OIG suggested that jurisdictions try to identify "red flags" of abuse such as the pumping of abnormal amounts of fuel during a transaction (i.e., 20 gallons for a 15 gallon vehicle fuel tank), multiple or sequential transactions during the same day, off-hour transactions, and odometer readings that do not match usage (i.e., odometer shows 100 mile difference between transactions but the fuel used would have enabled the vehicle to go 600 miles).

Jurisdictions around the U.S. have identified significant drops in fuel use after anti-fraud, waste, and abuse measures have been enacted. Although this may not indicate that fuel had been misused, it does indicate that control measures, at a minimum, create a more judicious use of fuel. Improving fuel control can have the added benefit of improving fleet management that can also potentially reduce costs for a jurisdiction.

Update: The price of a gallon of gasoline has risen dramatically in early 2011 and civil unrest in the Middle East may drive prices up further. As fuel is becoming an increasingly costly commodity for public entities, they should make every effort to ensure that fuel use and the fuel supplies they may maintain are well managed, controlled,

and protected against fraud, waste, and abuse. This can save thousands of dollars a year for some jurisdictions.

Gloucester Roadway Construction Project

In early 2010, the OIG forwarded "certain investigative information," pursuant to 945 CMR 1.09(3)(c), concerning a $2.5 million Massachusetts Opportunity Relocation and Expansion Jobs (MORE) Grant to the Massachusetts Executive Office of Economic Development (EOED). EOED awarded the MORE grant to the City of Gloucester in 2009 for a roadway project intended to connect Route 128 to a new mixed-use private development. The OIG requested that EOED review Gloucester's use of some of the grant funds for a change order that altered the scope of the roadway project. The OIG suggested to EOED that Gloucester may have misrepresented the reasons for the change order and therefore EOED might require that some of the MORE grant funds be returned to the state. The OIG believed that the change order became necessary because the construction contractor failed to comply with conservation restrictions that the City had imposed on the project. As a result, the project schedule faced delays that could impact the private development the roadway intended to serve. To fund the change order, the City deleted more than $500,000 from the project's scope of work. These deleted items included curbing, lighting, guardrails, pavement, pavement markings and other items. Later, the City requested and EOED agreed to an increase in MORE grant funding to cover added project costs that appear to have included the deleted scope items. The OIG also found that the developer requested and received consent from the City's Conservation Commission to lift the restrictions that appear to have caused the change order in the first place. As a result, the OIG believed the City failed to adequately justify the change order.

The City strongly disagreed with the OIG review. EOED reviewed the matter and determined that the grant allowed funds to be used for the purpose outlined by the City. The OIG deferred to EOED's determination as the grantor of MORE funds.

Update: Misuse of Public Land in the Town of Andover

The OIG received an allegation that a commercial abutter to land owned by the Town of Andover had been using this public land for private business purposes including the parking and storage of vehicles. In December 2009, the OIG requested that the Town review the matter and determine whether Town land had been used inappropriately. In February 2010, the Town responded that to prevent the misuse of this land, the Town would erect new signage and that by the summer of 2010, the Town would place barriers along the border of the land in question to prevent the use of the public land for parking

and storage. Parking along the roadway abutting the town land would only be allowed on a short term basis.

Update: Bailey's Pond Disposition by the Town of Amesbury

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

The City agreed to review the process and to revisit the purchase and sale agreement. In early 2010, the City's attorney forwarded to the OIG a revised agreement for the property disposition. The new agreement contained a number of the protections suggested by the OIG in 2006. However, the OIG did not conduct a new review of the process that had occurred since 2006 nor had the City asked the OIG for a further review. As a result, the OIG communicated to the City that the OIG had no additional comments beyond those raised in the initial 2006 review.

Update: Right-of-Way Issues in the Town of Stoneham

In 2010 the OIG received a complaint that the Town of Stoneham violated M.G.L. c.30B by issuing permits for the use of town-owned land. 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. Based on the OIG findings and recommendations, the Town began working with the Massachusetts Bay Transportation Authority (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, entered into "license" agreements with those parties currently trespassing on or wishing to use the ROW. These

licenses are 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. Based on an OIG review, the Town of Stoneham and the MBTA could generate more than $100,000 during the next three years from private parties that formerly used public property without permission.

Using licenses is not a violation of M.G.L. c.30B. The OIG informed the complainant of that fact. Shortly thereafter, the Town contacted the OIG stating that it had been informed by an individual that the OIG had opined that the Town violated M.G.L c.30B by using licenses. The OIG clarified the matter with the Town and the OIG considers the matter closed.

OIG Approves of State Action Not To Award Unfair Tax Breaks

By letter of December 2010, the Inspector General commended Secretary of Housing and Economic Development Gregory Bialecki for a decision by the Economic Assistance Coordinating Council (EACC) to not approve a Tax Increment Financing (TIF) tax break application for a project in the Town of Hingham. The EACC did not approve the tax break because the EACC believed the Town failed to contribute a “fair share” of the tax break in the form of a local real property tax reduction. The TIF is composed of a local real property tax break and a state-level corporate tax credit. The Town’s attempt to apply a very small real property tax break to the TIF resulted in, according to the OIG, “placing the entire tax burden for what is essentially a municipal program on the shoulders of the state.”

The OIG stated that the EACC “deserves credit for ensuring…that municipal actions did not undercut this economic development program.” Beginning in 1999, the OIG monitored the TIF program and between 2002 and 2006 issued a number of work products relating to TIF oversight issues. The OIG cited cases similar to the Hingham case where prior weak program oversight allowed municipalities to avoid paying their fair share of tax breaks and in some cases negotiated with tax break recipients to have these recipients refund or “gift” back the value of the real property tax break to the municipality. This violated the spirit of the TIF statute, placed the entire tax break burden upon the state, and, according to the Office of the Attorney General in a 2004 opinion, may violate M.G.L. c.44 – the Municipal Finance Law.

Allegation of Fuel Theft in the Town of Groton

In May 2010, the OIG responded to an allegation that employees at the Town of Groton's Highway Department misappropriated fuel for personal use from the Town's gasoline tanks. The OIG informed the Town Manager that the department had an informal practice of reimbursing employees with fuel for job-related expenses. The OIG stated that this practice was inappropriate and vulnerable to fraud, waste, and abuse because it was based on "oral understandings" and it "lacked an audit trail." The department informed the OIG that this practice had been discontinued. The OIG also identified other weaknesses in the department's fuel control practices including a lack of "routine and systematic review of fuel transactions," failure to use "built-in control measures" available with the fuel management system software, and a lack of segregation of duties as the Highway Department Director handles all aspects of the fuel system including the audit and billing functions. The OIG identified this as an internal control risk. The OIG recommended that the Town implement suggestions made in this letter and that the Town should review a Municipal Fuel Management Advisory released by the OIG in early 2010 regarding fuel management systems to determine if any other OIG recommendations would be applicable to the Town's situation. The Town agreed to implement any appropriate changes.

Allegation of Funds Misuse in the Town of Groton

The OIG reviewed an allegation that the Town of Groton's Department of Public Works (DPW) misused and mishandled funds it obtained through the sale of scrap metal. The OIG found that with the approval of the DPW Director, since at least 2006 a DPW employee sold scrap metal for more than $2,300 without following M.G.L. c.30B, held the funds obtained from the sale in a personal bank account, and at the request of the DPW Director purchased "amenities" for the DPW such as a gas grill, grill accessories, a convection oven, coffeemaker, toaster oven, cots, and steak knives. The employee made these purchases without following procurement rules. The OIG informed the Town that in addition to failing to follow procurement rules, the DPW violated M.G.L. c.44 – the Municipal Finance Law by not turning these funds over to the Town treasury, failed to follow sound business practices, and created a risk to fraud, waste, and abuse by allowing an employee to "hold" these Town funds with the knowledge of only a small group of employees who benefited personally from the purchases made with these funds. The OIG also found that the Town violated M.G.L. c.30B and possibly the State Ethics Law by allowing employees to use DPW property and by bartering with contractors for services. The Town agreed to examine the matters brought to its attention and make appropriate changes to comply with applicable

laws. The practice of selling material privately has been discontinued and the employee who "held" these funds turned the remaining funds over ($815) to the Town Treasurer.

Update: 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.

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 highlighted by the Inspector General's office. By this action, member communities received back $821,000 in surplus funds.

Also in 2009, the OIG hired Melanson Heath & Co. (Melanson) an auditing firm with a significant background in municipal and school district accounting to address Assabet's contention that its accounting was proper and that spending for conventions was reasonable. Regarding the improper holding of millions of dollars in revolving funds Melanson also confirmed that Assabet spent thousands of dollars on alcoholic beverages using the school district's credit card and in violation of municipal law. The findings of the Melanson audit supported the original OIG findings. The findings of the review were discussed with the Department of Revenue (DOR) and the Department of Elementary and Secondary Education (DESE) who concurred with

the findings and initiated discussions with Assabet to close a number of inappropriate accounts. For example, in early 2010, DESE informed Assabet that it had to begin the process to liquidate a health claims trust account that at the time of the audit had a balance of more than $500,000. DESE informed Assabet that this trust "is no longer appropriate and must be discontinued."

Based on the audit, the OIG, DOR, and DESE have agreed on all issues originally identified by the OIG except for one. As a result, Assabet has had to close accounts worth millions of dollars and return these funds to the member communities, consider these funds as current operating revenue, or transfer these funds to lawfully created accounts by appropriate methods including the approval of member communities. The only account where there continues to be disagreement is approximately $3 million dollars in an out-of-district tuition account. This tuition is paid by municipalities that are not members of the Assabet district for students who wish to attend Assabet. DESE sets the tuition rates on a yearly basis. The OIG and Melanson contend that the tuition collected by Assabet should be applied to the budget yearly pursuant to the regional agreement that created the Assabet district, sound business practice, and fairness as tuition is presumably paid to cover the costs of educating a student. If the tuition is saved rather than spent then the member communities may, in effect, be subsidizing the costs of educating these out-of-district students. DESE and DOR disagree arguing that current statutes do not require a school committee to apply these funds. The OIG disagrees and has suggested that the issue be forwarded to the Office of the Attorney General for an opinion. DESE and DOR have not expressed a willingness to do so. What is clear is that prior to the OIG review of the matter, the legality of school districts holding large "reserve" funds had not been formally addressed at the state level. DESE stated that it would issue guidance as soon as possible to school districts concerning the practice of establishing reserve accounts. The OIG is unaware of any guidelines having been issued in 2010.

Town of Abington Zoning Complaint

The OIG received a complaint that Abington Town officials had acted inappropriately in a zoning matter and may have been guilty of fraud, waste, and abuse in addressing matters presented by an individual to various Town authorities. OIG staff reviewed the matter and determined that the complainant needed to seek redress through the court system regarding the denial of permits and plans by Town Boards. The complainant had previously brought the issue to court and the court found in favor of the Town. The OIG closed the matter in deference to the court decision.

Ongoing Review of Energy Service Performance Contracts Involving Massachusetts Municipalities

The OIG has been working cooperatively with the Division of Energy Resources (DOER) to develop enhanced regulatory language that would provide greater guidance and financial protections for municipalities as well as model documents for long term, and sometimes complex, energy management/performance agreements under M.G.L c. 25A, §11I. The OIG is also examining certain existing energy management contracts.

Previously, the OIG has offered guidance and information in the quarterly Procurement Bulletin concerning these types of contracts. This guidance has included recommendations that municipalities procure the services of an independent consultant whose expertise is in the International Performance Measurement and Verification Protocol (IPMVP), the industry standard for savings verification. The OIG suggested that the consultant be able to:

- Determine the specific needs of the jurisdiction, and determine whether those needs can be met by contracting with a local utility or if it will be necessary to procure the services of an energy management company or an energy services company (ESCO).
- Assist in drafting non-proprietary specifications for the procurement of the vendor and should be able to assist you in verifying whether the savings guaranteed under the contract will be realized.

The OIG further recommended that municipalities do not use vendor supplied language for solicitation documents since using vendor supplied language could have negative legal and policy implications. The OIG also opined that municipalities not enter into a contract unless they: 1) understand how they will be charged for services; 2) will be able to verify the charges: 3) will be able to verify any vendor savings estimates; and 4) understand all contract related costs.

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American Recovery and Reinvestment Act Oversight

On February 17, 2009, the President signed the American Recovery and Reinvestment Act (ARRA) in direct response to the economic crisis. ARRA's three immediate goals were to create new jobs and save existing ones; spur economic activity and invest in long-term growth; and foster unprecedented levels of accountability and transparency in government spending. To accomplish these goals, ARRA increased federal funds for education, health care, entitlement programs, federal contracts, grants and loans and provided tax cuts to families and businesses. The act also required recipients of ARRA funds to report quarterly on how they are using the money. Through December 2010, Massachusetts was awarded $7.1 billion in ARRA funding and $5.5 billion was spent, according to the Massachusetts Recovery and Reinvestment Office (MARRO).

The ARRA Team

Since its inception in October 2009, a team of analysts, lawyers and investigators funded by ARRA have initiated a variety of cases aimed at detecting and preventing fraud, waste and abuse in projects funded by ARRA. In calendar year 2010 the ARRA team worked on 30 cases involving more than $1.2 billion in stimulus and associated federal, state and local funds awarded to nearly 370 grantees and recipients, including school districts, municipalities, police departments, state agencies, non-profits, regional transit authorities and county commissions. In 2010 the team issued 29 letters and advisories regarding nine grant programs, reviewed numerous complaints, conducted anti-fraud trainings and mailed anti-fraud letters and fraud "hotline" posters to numerous public agencies with offers of free trainings and technical assistance. The OIG provided quarterly reports to the Government Accountability Office. OIG staff members also communicate regularly with federal oversight officials.

ARRA Oversight

The American Recovery and Reinvestment Act (ARRA) provides for a small amount of funding for central administrative costs. These funds are being used for the Massachusetts Recovery and Reinvestment Office (MARRO), including a centralized reporting and monitoring system, and for the auditing and oversight functions of the Office of the State Auditor, the Office of the Inspector General, the Office of the Attorney General, the Office of the State Comptroller, and the Operational Services Division. In 2010, the OIG continued with its

ARRA oversight plan consisting of traditional OIG investigative and review functions as well as ARRA-specific program and grantee risk assessment, control environment and activity evaluation, accountability reviews and compliance monitoring. The OIG has focused its efforts on direct recipients of ARRA funds (entities who received funds directly from the federal government rather than through state agencies). This focus was determined based on coordination with MARRO, the State Auditor and other oversight agencies. In January 2011, the OIG received a funding extension to continue its ARRA oversight work through June 30, 2011.

The OIG believes that as ARRA spending winds down in 2012 towards the end of the ARRA grant cycle, greater oversight opportunities will exist, and the OIG will transition from a model of fraud prevention to one of detection. The OIG strongly recommends that the Massachusetts Recovery and Reinvestment Office continue ARRA oversight funding through 2012 and possibly beyond, since unfortunately a great deal of fraud, waste and abuse goes undetected until after money is spent and contracts have ended.

Moreover, due to unforeseen project and other delays on the part of grant recipients, ARRA funds are being spent over a longer period of time than originally foreseen, increasing the need to also extend oversight over a longer period.

Procurement of MBTA Paratransit Ride Vans with ARRA funds

In July 2010 the OIG recommended the Massachusetts Department of Transportation (MassDOT), formerly known as the Executive Office of Transportation (EOT), rebid a five-year contract for the procurement of paratransit vehicles for regional transit authorities, local councils on aging, private not-for-profit transit providers and the Massachusetts Bay Transportation Authority's (MBTA) The Ride paratransit program for disabled persons.

In 2009 the MBTA used the contract to purchase 108 paratransit vehicles for The Ride program at a cost of $5.5 million, made possible by an ARRA funded $26.6 million Federal Transit Authority (FTA) grant. An OIG review of the purchase found flawed procurement practices, including unclear specifications, a weak and arbitrary proposal evaluation process and poor documentation, which undercut fair and open bidding and limited competition. As a result, taxpayers could be exposed to more than $700,000 in wasteful and unnecessary spending over the life of the contract due to potentially higher than necessary vehicle costs.

The OIG issued its findings and recommendations in a July 2010 letter to MassDOT Secretary Jeffrey Mullan and MBTA General Manager

Richard Davey. In response to the OIG's recommendations, MassDOT agreed to rebid the contract "as soon as practicable."

MassDOT also stated in its letter to the OIG that "the importance of the oversight role played by your office cannot be overstated," and that the OIG review "strongly underscores the need for full documentation of these decisions, something that was admittedly not done in this case."

The OIG review found the following:

- EOT's Request for Response (RFR) did not clearly differentiate between mandatory and preferred requirements, which deterred prospective bidders and created a burden on bidders to comply with specifications that EOT did not ultimately require.
- The evaluation committee did not follow Operational Services Division (OSD) guidelines and failed to adequately document its actions. The OIG alerted OSD to issues under its jurisdiction.
- The MBTA purchased and took delivery of vans that did not meet contract requirements.
- The purchase of the new vans may have led to premature decommissioning of serviceable vans.
- The MBTA may incur significant unexpected costs in the future to maintain its van fleet size.

The OIG is now working cooperatively with MassDOT and the MBTA to review other Ride expenditures under the auspices of Lt. Governor Timothy Murray's Fraud, Waste, and Abuse Task Force.

In direct response to this report, in early 2011 MassDOT issued a guide entitled "How to Conduct a MassDOT Procurement" that addresses many of the concerns raised and issues identified by the OIG. To the OIG's knowledge, MassDOT is waiting to reprocure the van contract.

Letter to State Purchasing Agent Regarding the OIG Review of The Ride

In April of 2010 the OIG wrote to State Purchasing Agent Ellen Bickelman alerting her of the OIG's review of The Ride van purchase. The letter noted six aspects of the purchases falling under OSD jurisdiction that did not conform to OSD standards. OSD also reviewed this procurement in cooperation with the OIG and concurred with the OIG's findings.

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

In January 2010, the OIG wrote to EOE Secretary Paul Reville warning that EOE's plan to use the single audit to monitor the ARRA-funded State Fiscal Stabilization Fund (SFSF) was inadequate. Despite the belief of EOE officials that the plan satisfied federal requirements, the OIG noted that the Government Accountability Office (GAO) determined a single audit-only plan lacked an ongoing monitoring component and left the funds "more susceptible to abuse." The OIG letter recommended EOE address the issue to avoid possibly jeopardizing future grants.

In response to the letter, EOE tasked the Department of Elementary and Secondary Education (DESE) with reviewing Fiscal Year (FY) 2010 SFSF expenditures as part of its audit function. The OIG has coordinated school district reviews with DESE, and agreed to review, on a sample basis, FY 2009 ARRA expenditures by local school districts.

Review of SFSF Spending by Public School Districts

The OIG reviewed $106,817,907 in FY 2009 SFSF money awarded to public school districts, which are using the funding for the purchase of goods and services. The review resulted in several possible instances of fraud that are currently being investigated by the OIG.

In 2010 the OIG sent letters to five school districts with the OIG's findings on ARRA compliance and the OIG's fraud prevention recommendations. More letters are being issued in early 2011.

Many school districts used their Fiscal Year 2009 SFSF funding for special education (SPED) expenses. Where applicable, the OIG reviewed and confirmed the following:

- School districts maintained written contracts with private SPED schools, as required by Massachusetts regulations.
- Private SPED schools charged school districts appropriate tuition rates, as established by OSD.
- School districts paid for the appropriately invoiced SPED expenses.

Other OIG findings:

- The OIG found possible careless contracting practices in one school district, including failures by the superintendent and a private SPED school to appropriately sign and date contracts.

- The OIG recommended that one district develop anti-fraud policies, conduct fraud risk assessments, train staff on ethics and fraud and ensure staff is aware of existing policies.

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

Review of ARRA Grants to Local Police

The OIG identified widespread violations of M.G.L. Chapter 30B, the state's Uniform Procurement Act, in local police departments that received Edward Byrne Memorial Justice Assistance Grants from the U.S. Department of Justice (DOJ). An OIG review of a sample of 22 grants to police departments revealed absences of delegated purchasing authority, improper use of collective purchasing agreements and a lack of documentation to justify sole source procurements.

In 2010 the OIG issued letters to seven local police departments containing findings and recommendations, including the following:

- Many departments did not know of or fully understand Chapter 30B.
- Despite direct involvement in the purchase of goods and services, some departments did not have the authority to do so.
- Some cities and towns did not file required delegations of purchasing authority with the OIG.
- Some departments bought goods from collective purchasing agreements without being approved participants of the relevant agreements. This undermines communities that legitimately participate in the agreements and pay associated fees.
- One department bought gas masks from a federal contract when the law allowing the use of this type of contract was not yet in effect.
- One department failed to document sole source determinations for two separate purchases of Tasers.

The OIG also discovered that several departments had not, at one point, complied with the reporting requirement of Section 1512 of ARRA. The OIG reminded 18 police departments, in writing, of this requirement, and of the potential loss of ARRA funds as a result of non-compliance.

In early 2011 the OIG issued an advisory based on its review to the Massachusetts Chiefs of Police Association for dissemination to its membership.

Reports on Federal Obstacles to OIG Oversight

In February 2010, and again in March 2010, the OIG wrote to the Recovery Accountability and Transparency Board (RAT Board) detailing obstacles to our reviews of Edward Byrne Justice Assistance Grants. The OIG believes these obstacles could have been a result of "reluctance or unwillingness" on the part of the Department of Justice (DOJ) Office of Justice Programs to share information.

Four and a half months after the OIG filed a Freedom of Information Act (FOIA) request, the DOJ provided the requested information. The OIG wishes to note the cooperation of the DOJ Office of the Inspector General in this effort to obtain information.

These letters alerted the RAT Board to the following problems with access to federal information:

- DOJ failed to respond to multiple requests for information regarding grants awarded to municipalities, even after the OIG filed a FOIA request at DOJ's request. The OIG believes it has a right to this information pursuant to M.G.L. Chapter 12A and under the accountability and transparency provisions of the ARRA Act without the need for a FOIA request.
- A lack of clear federal guidelines and definitions governing fraud, waste and abuse complicates efforts of oversight agencies.
- DOJ did not specify what procurement policy it expected grant recipients to follow.

Follow-up to ARRA "Readiness Assessment"

The OIG reviewed responses of six executive state agencies to a "Readiness Assessment" of the agencies' preparedness to receive ARRA funding.

The state's single audit agency, KPMG, conducted assessments in 2009 for the Department of Energy Resources (DOER), the Department of Elementary and Secondary Education (DESE), the Department of Environmental Protection (DEP), Department of Housing and Community Development (DHCD), Executive Office of Public Safety and Security (EOPSS) and MassDOT. The OIG asked the six agencies to report on how they responded to KPMG's assessments. The OIG then reviewed the responses for comprehensiveness and provided recommendations to the agencies

on establishment, maintenance, and communication of a comprehensive anti-fraud program.

The OIG recommended to all six agencies an ongoing agency-wide anti-fraud strategy, including periodic staff training, risk assessments, compliance reviews, selected audits or reviews, and other prevention and detection protocols.

The OIG also issued agency-specific recommendations to address weaknesses in anti-fraud programs:

- EOPSS: Ensure clear communication exists between EOPSS and employees, sub-grantees, and vendors; and conduct training on fraud awareness and controls.
- MassDOT: Strengthen review and approval processes during all aspects of procurement to ensure due diligence of recipients and identify evidence of fraud, waste and abuse; and continue to use forensic data analysis to detect trends and anomalies that may be indicative of fraud.
- DESE: Include anti-fraud training in communications with sub-grantees and employees; establish policies and mechanisms for internal and external reporting; and ensure DESE's review process contains robust anti-fraud, waste, and abuse detection methods.
- DOER: The OIG acknowledged DOER's collaboration with the OIG to establish a more comprehensive monitoring plan for recipients of Energy Efficiency and Conservation Block Grants (EECBG). This reaffirmed KPMG's assessment that a plan geared toward preventing fraud, waste, and abuse should include regular site visits and guidance and training for sub-grantees, vendors, and DOER employees. DOER, in a letter to the OIG, said DOER staff "appreciated the assistance" of the OIG.

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

In August of 2010 the OIG provided recommendations to the Green Communities Division of DOER on how to increase DOER's capacity for monitoring 94 sub-grantees of Energy Efficiency and Conservation Block sub-grants (EECBG) funded by ARRA. The letter resulted from a collaborative effort with DOER to identify risks for fraud, waste and abuse in the EECBG grant program and help build the agency's capacity to administer the grants. The OIG recommended DOER define the scope of its monitoring role, assess risks, identify vulnerabilities and develop a monitoring plan based on its risk assessment and "best practices."

In response, DOER implemented a plan focusing on high risk projects and recipients, geographic diversity and efficient use of the agency's limited monitoring resources. The OIG also coordinated its EECBG monitoring activities with DOER to avoid duplication of effort and maximize oversight across the Commonwealth.

Review of Healthy Homes Grants

The OIG reviewed two $875,000 Healthy Homes Grants awarded to Self Help Inc. and the University of Massachusetts (UMass) Lowell Institute for Housing Sustainability. The grants, issued by the United States Office of Housing and Urban Development (HUD) under ARRA, were intended to remediate health and safety hazards in income eligibility housing with children and elderly residents.

The OIG recommended opportunities for both agencies to increase controls. These included an outside audit, volume purchasing, written contracts with all vendors, staff training on fraud and abuse and a requirement that employees account and record time worked for each funding source.

The OIG further alerted UMass that its program was considered "high risk" and subject to greater oversight because UMass was receiving a Healthy Homes grant for the first time.

The OIG commended Self Help for exceeding its project goals and earning a "low risk" rating from HUD. In response to a request by Self Help, the OIG reviewed the agency's anti-fraud policy developed as a result of our review. We suggested the following improvements to the policy:

- Define the terms "fraud" and "abuse" and identify how fraudulent or abusive actions may violate law, regulations, contracts, etc.
- Detail consequences of committing fraud, including disciplinary action, termination, and the potential for referring matters to law enforcement.
- Tailor the policy to reflect the agency's specific needs and resources, and use examples of potential fraud that could impact the agency to illustrate points.
- Discuss in greater detail the "investigative procedures" that may be undertaken and reiterate that investigations will be conducted fairly and objectively.
- Include specific reporting information such as contact information for government oversight agencies, including hotline numbers, and cite and explain federal and state whistleblower protections as well as both ARRA and other federal requirements for mandatory reporting of false claims and fraudulent activity.

- Include checklists for program reviews in non-financial areas such as data and system integrity and employee and workplace safety and security.
- Advise that the agency and its employees have a custodial responsibility for public funds and must ensure these funds are protected from fraud, waste, and abuse.

Complaint Regarding Barnstable Airport Expansion

In September 2010 the OIG reviewed a complaint alleging the Town of Barnstable unlawfully issued building permits for portions of the airport expansion project, which included $3.6 million in ARRA funds to erect an air traffic control tower. The OIG requested information from the Cape Cod Commission (CCC) and will continue its review in 2011.

Review of Assistance to Firefighter Fire Station Construction Grant

The OIG reviewed a $1,888,775 ARRA Assistance to Firefighter Fire Station Construction Grant awarded to Chelsea for the renovation of its station, the only award of its kind in the state in 2009. The review determined the grant application did not include specific expenditures or explanations of how problems in the existing station would be addressed, making it difficult to accurately predict costs.

The OIG reviewed the grant application and project solicitation documents, including the Request for Proposals (RFP) for design services, bid evaluation forms, the response by the winning bidder to the RFP and documentation regarding an expanded scope of services for the winning bidder.

Review of Airport Improvement Program

The OIG reviewed the application, award letter and procurement file for an airport in Westfield awarded an Airport Improvement Program grant under ARRA. The OIG questioned different project cost estimates used during the procurement process. Airport officials attributed the differences to design development and timing issues. The OIG is coordinating its airport reviews with the federal Department of Transportation Office of the Inspector General (DOTOIG).

Coordination with Department of Transportation Inspector General on ARRA Small Shipyard Grant

The OIG and the DOTOIG coordinated oversight of two Massachusetts shipyards receiving a combined $2,043,438 in Small Shipyard ARRA grants.

Debarment Reviews

The OIG sampled construction companies receiving ARRA funds, as identified in the 1512 reporting, and compared them to the debarment list to ensure that they that had not been red-flagged or debarred from public projects by the Commonwealth. The use of debarred contractors is prohibited. This review confirmed that no debarred contractors are currently engaged in state highway projects in the samples tested.

ARRA Grant Monitoring

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

ARRA Transportation Grants

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

ARRA Procurement Bulletins

The OIG publishes a Procurement Bulletin quarterly for local officials around the state. Beginning with the last bulletin of 2009, the OIG has devoted a page exclusively to ARRA-related issues.

The March 2010 “ARRA Page” outlined differences between prime and sub-grantees of ARRA funds, the role of chapter 30B delegations and the responsibility of procurement officials to report delegations of procurement authority to the OIG. It also reminded procurement officials that all contracts must provide for the “right to audit” by a responsible oversight agency and noted that ARRA funds are subject to heightened scrutiny.

The June 2010 page included information on ARRA audit services and reported on the OIG’s review of the Healthy Homes grant.

The September 2010 ARRA page detailed grant monitoring strategies and methods to ensure that open communication exists between contractors, grantees and sub-grantees. It also highlighted the OIG’s review of the MBTA’s paratransit program (The Ride), and guidance issued to DOER regarding monitoring plans for Energy Efficiency and Conservation sub-grants.

The December 2010 ARRA page contained information about ethics reform law and advised that based in OIG ARRA reviews many jurisdictions appear in violation of procurement law pertaining to delegations of purchasing authority.

Trainings and Outreach

The OIG continues to provide anti-fraud and procurement training to recipients and professional groups, and issue ARRA-related guidance and assist state and local agencies to increase their grant oversight and fraud prevention capacity. In 2010 the ARRA team conducted training and/or consulted with on anti-fraud measures and sound procurement practices for audiences including, a joint meeting of state university and community college chief financial officers and comptrollers, a regional conference of the American Society for Public Administration, Cape Cod Purchasing Officials, public works officials from Norfolk, Bristol and Middlesex Counties, the Massachusetts Association of Public Purchasing Officials, the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials, the Department of Housing and Community Development, the Office of the State Comptroller, the Massachusetts Municipal Auditors and Accountants Association, the Department of Elementary and Secondary Education, the Massachusetts Association of School Business Officials, state agency grant administrators, the Executive Office of Public Safety and Security, the Massachusetts Recovery and Reinvestment Office, and an ARRA-specific presentation in the OIG's Massachusetts Certified Public Purchasing Official program.

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

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

STOP Fraud Task Force

Staff from the OIG meets regularly with the STOP Fraud Task Force, which coordinates ARRA oversight activity between state and federal oversight agencies and is developing an anti-fraud policy as a potential template for public agencies across the state.

Lieutenant Governor's Task Force

Staff from the OIG meets regularly with the Fraud, Waste, and Abuse Task Force to coordinate oversight and anti-fraud activity within state government, including developing statewide policies and facilitating

inter-agency initiatives. The Task force is spearheaded by Lt. Governor Tim Murray.

Health Safety Net Audit Unit

The Health Safety Net (HSN) Audit Unit (Unit), created by Section 1 of Chapter 240 of the Acts of 2004, and most recently extended by Section 152 of Chapter 131 of the Acts of 2010, 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 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.

As the cost of providing health care has grown, the OIG has explored cost containment and reimbursement issues related to the HSN, MassHealth (both fee for service and the managed care organizations), the Massachusetts Health Insurance Connector Authority, and the private insurance market. In addition, during 2010 the OIG reviewed the method by which community health centers were reimbursed by the HSN and by MassHealth. The Unit also is examining whether these two programs have effective reimbursement review procedures.

The efforts of the OIG focused on claims and eligibility editing, inappropriate reimbursements, and primary care delivery in the HSN. For MassHealth, the OIG examined the issues of reimbursement, MassHealth cost containment, and asset testing. In private insurance the OIG looked at premium regulation and global payments.

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.

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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 2010, 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: MassDOT, Highway Division, Massport, and the MWRA.

Construction Management at Risk

Under the CM at risk method, the owner typically selects the CM at risk firm, which will later serve as the project general contractor, at the outset of or early in the design stage. After conducting a selection process that focuses on qualifications and fees, the owner executes an initial CM at risk contract with the selected CM at risk firm. As the design progresses, the CM at risk firm provides construction management services, such as constructability reviews of the design, construction scheduling, and project cost estimates, to the owner. At some point during the design stage, the owner and the CM at risk firm negotiate a guaranteed maximum price (GMP) for the project. When the contract is amended to include the GMP, the CM at risk contract becomes a cost-plus contract with a GMP, and the CM at risk firm assumes responsibility for the performance of the work, including the work performed by project subcontractors. The owner pays the CM at risk firm the actual cost of the work plus the agreed-upon CM at risk fee up to the GMP; change orders resulting from scope changes and unanticipated site conditions encountered during construction may increase the final contract cost.

The OIG received 20 applications to use CM at risk in 2010, totaling approximately $788,931,642 in project costs. Applicants included Somerville, Burlington, Andover, the Massachusetts Bay Transportation Authority, Uxbridge, Methuen, Longmeadow, Kipp Academy Lynn, Dedham, Grafton, Needham and Shrewsbury.

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 2010, the OIG reviewed four applications to use design build projects. The projects are being conducted by the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority, Cape and Vineyard Electric Cooperative, and the City of Revere.

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 2010, MassDOT Highway Division submitted procedures for incentive/disincentive specifications to be used on three bridge projects. The projects were located on Interstate 93 in Medford, Route 9 in Wellesley, and Routes 2/2A in Phillipston. 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 MassDOT to escalate its oversight function to ensure all contractual requirements are satisfactorily completed in a quality manner. The Inspector General approved the procedures.

Massachusetts School Building Projects

In 2010, 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 who opt to use a model school design.

In 2010, the model school program has expanded from just encompassing high schools to now including middle and elementary schools as well. Districts participating in the Model School Program include East Bridgewater, Norwood, Natick, Plymouth North, Minnechaug, Tewksbury and West Springfield, Quincy, and Douglas Intermediate School. These schools have been designed based on schools in districts including Whitman-Hanson, Ashland, Hudson, Lynnfield and Winthrop.

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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 OIG reviewed the third amendment to the Worcester CitySquare Development Agreement, which governs the disbursement of public funds to the project. The revision was sought because a new developer has been named and the project scope, phasing and timeline have been adjusted. Additionally, the new developer is reexamining the entire plan, and may not include the public underground parking that was originally planned. The public investment is substantial in proportion to the private investment. Originally, it was anticipated that the project would include $470 million in private investment. The developer is now planning on investing $70 million, with $36 million contributed by the state and $10 million by the city. The city is aware of the risks and is working to ensure that the project is ultimately a success.

Massachusetts Broadband Institute (MBI): The OIG reviewed the lease and operating agreements between MassDOT and the Massachusetts Technology Park Corporation/MBI for wireline telecommunication facilities. The lease and agreement will allow MBI to maintain a fiber optic communication system to support a broadband network to serve the western part of the state. The OIG, with DCAM, made several suggestions to protect

the interests of the Commonwealth. Additionally, the OIG approved the MBI application to use the design build method for this project.

Below are a few examples of legislatively mandated disposition agreements the Inspector General reviewed in 2010:

Worcester Plantation Street Land: The OIG reviewed a draft release deed relative to the disposition of a parcel of land on Plantation Street in Worcester to be conveyed to the Worcester Business Development Corporation. The disposition was made pursuant to Chapter 190 of the Acts of 2007. The OIG had previously approved the appraisal for this parcel. The OIG also reviewed documents related to the transfer of parcels of land under the control of the Department of Mental Health and DCAM to the Department of Agricultural Resources as mitigation for the above mentioned transfer. The reviews determined that the disposition was consistent with all relevant legislation.

Holden Land: The OIG reviewed documents related to the transfer of a parcel of land in Holden to an abutting party in exchange for a watershed preservation easement. The disposition was made pursuant to Chapter 24 of the Acts of 2004. The OIG had previously approved the appraisal for these parcels. The OIG 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:

Concord Affordable Housing: The OIG reviewed documents related to the appraisal of a parcel of land in Concord pursuant to Chapter 117 of the Acts of 2010. The parcel is to be used by the Concord Housing Development Corporation for a 100% affordable 20-unit condominium development and open space. The OIG approved the methodology and estimate of market value as presented in the appraisal.

North Adams Armory: Pursuant to Chapter 290 of the Acts of 2002 as amended by Chapter 400 of the Acts of 2008, the OIG reviewed an appraisal of a parcel of land in North Adams abutting the former North Adams Armory. The Commonwealth had previously conveyed the armory to the city. According to Chapter 290, the armory, and by amendment, the subject parcel is to be used for the purposes of a community center. The OIG approved the methodology and estimate of value presented in the appraisal.

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 OIG administers the Massachusetts Certified Public Purchasing Official Program (MCPPO), which the office created fourteen 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 and recertification as Designers and Owner's Project Managers for the Massachusetts School Building Authority.

Over 1000 participants consisting of town, city and state employees as well as members of the private sector attended MCPPO courses and presentations in 2010, bringing the total number of participants since 1997 to approximately 10,000.

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

In the fall of 2010, the OIG, in consultation with the Commonwealth's Human Resources Division, developed an introductory online course entitled *"Bidding Basics M.G.L. C.30B".* This online course is available at no cost and covers the legal requirements for the procurement of contracts by local governmental bodies for supplies, services and real property under M.G.L. c.30B. This online course serves many purposes, including: as a refresher for staff who do not interpret the law every day, as a foundation for new hires, or as a quick review. More than 100 people have signed up for this new course.

Last year the OIG successfully incorporated video conferencing into the MCPPO Program – simplifying the ability to attend the MCPPO training seminars for those with travel and/or personnel issues. 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 2010 the MCPPO Program also offered the two-day *"Advanced Topics Update*" seminar, the one-day "*Construction Management at Risk Under M.G.L. c.149A*" seminar, and 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 an MCPPO certificate.

The OIG's four-day 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. This course was developed by the OIG and was presented in March, May, October and December of 2010.

Also introduced in 2010 was the "*Recertification for School Project Designers & Owner's Project Managers*" seminar. This 1-day class was designed as an update and a refresher for those private sector designers and owner's project managers who have previously received their MCPPO certification. Recertification is required every three (3) years.

Speaking Engagements

The OIG also provided speakers on various topics in public procurement law for: the Executive Office of Public Safety and Security (EOPSS), the Massachusetts Association of Public Purchasing Officials (MAPPO), the Massachusetts Association of School Business Officials (MASBO), MASBO Save the Drive Program (conducted under the auspices of the Department of Elementary and Secondary Education), the Massachusetts Association of Treasurers and Collectors (MATC) and STAR Expo 2010.

Inquiries, Complaints and Protests

In 2010, the Office responded to approximately 3,300 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 2,215 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. The OIG performed bylaw reviews for Southborough, Natick, Millville and Hanson in 2010.

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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 2010:

2010

- CHAPTER 17, "AN ACT AUTHORIZING THE CITY OF GARDNER TO CONVEY CERTAIN PARK LAND";
- 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”;
- CHAPTER 41, “AN ACT RELATIVE TO THE MEMBERSHIP OF THE CONSERVATION COMMISSION OF THE TOWN OF STOCKBRIDGE”;
- CHAPTER 62, “AN ACT AUTHORIZING THE LEASE OF CERTAIN AGRICULTURAL LAND IN THE TOWN OF WESTFORD”;
- CHAPTER 65, “AN ACT AUTHORIZING THE LEASE OF LAND TO YACHT CLUBS”;
- CHAPTER 70, “AN ACT ESTABLISHING THE SANDWICH ECONOMIC INITIATIVE CORPORATION”;
- CHAPTER 100, “AN ACT RELATIVE TO THE CONVEYANCE OF CERTAIN CONSERVATION LAND IN THE TOWN OF SHARON”;
- CHAPTER 117, “AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE CONCORD HOUSING DEVELOPMENT CORPORATION FOR AFFORDABLE HOUSING AND OPEN SPACE PURPOSES”;
- CHAPTER 118, “AN ACT AUTHORIZING THE TOWN OF CHELMSFORD TO CONVEY CERTAIN CONSERVATION LAND AND GRANT CERTAIN EASEMENTS”;
- CHAPTER 121, “AN ACT AUTHORIZING THE TOWN OF WESTPORT TO LEASE A PORTION OF THE WESTPORT TOWN FARM TO THE TRUSTEES OF RESERVATIONS”;
- CHAPTER 152, “AN ACT EXEMPTING THE CITY OF SPRINGFIELD FROM CERTAIN PROVISIONS OF THE GENERAL LAWS”;
- CHAPTER 153, “AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN PARCELS OF LAND”;
- CHAPTER 161, “AN ACT AUTHORIZING THE BRISTOL COUNTY COMMISSIONERS TO BORROW MONEY FOR THE REPAIR OF SEWER EXTENSION FACILITIES AT THE BRISTOL COUNTY AGRICULTURAL HIGH SCHOOL”;
- CHAPTER 188, “AN ACT RELATIVE TO MUNICIPAL RELIEF”;

- CHAPTER 221, “AN ACT AUTHORIZING THE TOWN OF MANCHESTER-BY-THE-SEA TO GRANT AN EASEMENT OVER CERTAIN LAND ACQUIRED FOR WATER SUPPLY PURPOSES”;
- CHAPTER 224, “AN ACT RELEASING CERTAIN LAND IN THE TOWN OF BRIMFIELD FROM AN AGRICULTURAL PRESERVATION RESTRICTION”;
- CHAPTER 225, “AN ACT AUTHORIZING THE DEPARTMENT OF FISH AND GAME TO ACQUIRE LAND OF THE TOWN OF ATHOL AND TO ACQUIRE A CONSERVATION RESTRICTION ON LANDS OF THE TOWN OF ATHOL IN EXCHANGE FOR GRANTS OF EASEMENTS TO THE TOWN OF ATHOL”;
- CHAPTER 233, “AN ACT RELATIVE TO CERTAIN EASEMENTS IN THE TOWN OF ANDOVER”;
- CHAPTER 244, “AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE TOWN OF TEWKSBURY”;
- CHAPTER 245, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND IN THE CITY OF SOMERVILLE TO THE SOMERVILLE HOUSING AUTHORITY”;
- CHAPTER 247, ‘AN ACT AUTHORIZING THE TOWN OF BREWSTER TO USE CERTAIN TOWN-OWNED LAND FOR GENERAL TOWN PURPOSES, INCLUDING RENEWABLE ENERGY PROJECTS”;
- CHAPTER 249, “AN ACT AUTHORIZING THE COMMONWEALTH TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF DARTMOUTH”;
- CHAPTER 250, “AN ACT MODIFYING A CONSERVATION RESTRICTION IN THE TOWN OF NORTH ANDOVER”;
- CHAPTER 254, “AN ACT AUTHORIZING THE CITY OF BOSTON TO GRANT PERMANENT VOLUMETRIC EASEMENTS RELATIVE TO VERTICAL TRANSPORTATION IMPROVEMENTS OVER CERTAIN PARCELS OF LAND IN THE CITY OF BOSTON”;
- CHAPTER 260, “AN ACT AUTHORIZING THE TOWN OF SHERBORN TO USE CERTAIN TOWN FOREST LAND”;
- CHAPTER 263, “AN ACT AUTHORIZING THE LEASE OF A CERTAIN PARCEL OF STATE-OWNED LAND TO PLIMOTH PLANTATION”;
- CHAPTER 266, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN LAND IN THE TOWN OF SPENCER TO THE WORCESTER COUNTY 4H CENTER”;

- CHAPTER 268, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO TRANSFER THE CONTROL OF CERTAIN LAND IN THE CITY OF BOSTON TO THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY”;
- CHAPTER 269, “AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO GRANT A PERMANENT EASEMENT TO THE COMMONWEALTH AND OVER CERTAIN STRIPS OF LAND OWNED BY THE CITY OF CAMBRIDGE”;
- CHAPTER 270, “AN ACT AUTHORIZING THE GRANTING OF EASEMENTS UPON LAND OF THE COMMONWEALTH LOCATED IN THE CITY OF CAMBRIDGE”;
- CHAPTER 279, “AN ACT CONVEYING CERTAIN PROPERTY TO THE TOWN OF SHERBORN”;
- CHAPTER 280, “AN ACT AUTHORIZING THE LEASING OF A CERTAIN PARCEL OF LAND OWNED BY THE DEPARTMENT OF CONSERVATION AND RECREATION IN THE TOWN OF HINGHAM”;
- CHAPTER 281, “AN ACT PROVIDING AN EASEMENT FOR AFFORDABLE SENIOR APARTMENTS IN THE TOWN OF HARVARD”;
- CHAPTER 286, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE TOWN OF SALISBURY”;
- CHAPTER 289, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN BUILDINGS AND PARK LAND IN THE TOWN OF HULL FOR DEVELOPMENT PURPOSES”;
- CHAPTER 291, “AN ACT PROVIDING FOR DEVELOPMENT AND OPERATION OF A NEW PARKER’S RIVER MARINA IN THE TOWN OF YARMOUTH”;
- CHAPTER 294, “AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT AN EASEMENT IN CERTAIN LAND TO THE TOWN OF WEST BOYLSTON”;
- CHAPTER 297, “AN ACT RELATIVE TO THE CONTINUED USE OF MEMORIAL PARK IN THE TOWN OF ROCKLAND”;
- CHAPTER 318, “AN ACT RELEASING A RESTRICTION ON A PARCEL IN THE TOWN OF NORWOOD”;
- CHAPTER 407, “AN ACT AUTHORIZING THE TOWN OF SUDBURY TO ENTER INTO AND TO EXTEND WIRELESS FACILITY CONTRACTS OR LEASES FOR PERIODS IN EXCESS OF 20 YEARS”;

- S1397, “AN ACT ALLOWING THE TOWN OF WARE TO SELL THE OLD COUNCIL ON AGING BUILDING AND ITS PROPERTY AT AN AUCTION”;
- S1447, “AN ACT AUTHORIZING THE TRANSFER OF A PARCEL OF LAND IN THE CITY OF TAUNTON”;
- S2285, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE, IN CONSULTATION WITH THE BOARD OF TRUSTEES OF THE ESSEX INDEPENDENT AGRICULTURAL AND TECHNICAL INSTITUTE, TO SELL AND CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF NEWBURY”;
- S2449, “AN ACT AUTHORIZING GOVERNMENTAL BODIES TO ENTER INTO CONTRACTS FOR THE INSPECTION, MAINTENANCE, REPAIR OR MODIFICATION OF WATER STORAGE FACILITIES”;
- S2645, “AN ACT PROVIDING FOR THE DISPOSITION OF COMMONWEALTH OWNED LAND IN THE CITY OF BOSTON”;
- H4317, “AN ACT RELATIVE TO CONSTRUCTION CONTRACTS IN THE TOWN OF ANDOVER”.

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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 2010 Reports and Publications

The Office of the Inspector General published dozens of reports and letters in 2010. The following documents are available on the Inspector General's Internet site www.mass.gov/ig:

- Plymouth County Commissioners: 2010 Pest Control Contract, December 2010.
- Inspector General's Office Conducts Follow-up Investigation of Parking Placard Abuse, October 2010.
- Letter to M. Jane Donahue, Chairman, Wareham Board of Selectmen Regarding Allegations of Possible Wrongdoing by the Maintenance Director, October 2010.
- Letter to Commissioner Mitchell D. Chester, Commissioner, Department of Elementary and Secondary Education Regarding Gloucester Community Arts Charter School's Public Procurement Contracts, September 2010.
- Inspector General Council Resolution Relative to the Appointment of a Director of the Internal Special Audit Unit of the Massachusetts Department of Transportation (MassDOT), July 2010.
- Letter to Groton Town Manager Mark Haddad Regarding the Department of Public Works' Sale of Scrap Material and Use of the Funds, July 2010.
- Letter to Robert Grossman, Chairman, Board of Selectmen, Town of Auburn Regarding an Investigation of Practices of the Auburn Highway Department, July 2010.
- Letter to Jeffrey B. Mullan, Secretary, Massachusetts Department of Transportation Regarding the Internal Special Audit Unit, June 2010.
- Letter to the City of Pittsfield Regarding a Lease and Valuation of a Softball Complex, June 2010.
- Letter Regarding the Fall River Redevelopment Authority, M.G.L. c.30B and Development of Land Pursuant to Chapter 266 of the Acts of 2002 relative to Casino/Gaming Purposes, May 2010.
- Letter to the Town of Marblehead Regarding a purchase of furniture, fixtures and equipment (FFE), May 2010.
- Letter to the Town of Groton Regarding an Allegation of Fuel Theft, May 2010.
- Letter Regarding Mahar Regional School District and an Energy Broker Contract and M.G.L. c.30B, May 2010.
- Letter to the Wareham Chairman of the Water Commissioners and Wareham Town Administrator Regarding Allegations of Improper Conduct by Employees, May 2010.
- Letter to the Records Conservation Board Regarding the Department of Elementary and Secondary Education's Retention of Records, May 2010.

- Letter to Commissioner Mitchell D. Chester, Ed. D., Regarding Changes to the Procedures for Reviewing and Approving Charter School Applications, May 2010.
- Letter to Executive Director Katherine P. Craven Regarding the Town of Brewster's School Buildings, November 2009.
- Boston Fire Department Employee Sentenced for Perjury and Obstruction of Justice, April 2010.
- Letter to Town Administrator Anthony Sasso, Town of Marblehead, Regarding a Furniture Storage and Relocation Contract, April 2010.
- Letter to Mayor Donna D. Holaday, City of Newburyport, Regarding the Newburyport Waterfront Trust and Its Status as an Instrumentality of the City of Newburyport, March 2010.
- Vocational School Employee Sentenced for False Statements, March 2010.
- Investigation into Vehicle Registration Abuse, March 2010.
- Ongoing Analysis of the Health Safety Net Trust Fund, March 2010.
- Letter to Acting General Manager William A. Mitchell, Massachusetts Bay Transportation Authority, Regarding Distribution of CharlieCards through the Corporate Pass Program, February 2010.
- Inspector General's Investigation of Boston Fire Department Accidental Disability Pension Fraud Update, February 2010.
- Letter to George Ramirez, Esq., Office of Business Development, Regarding a Construction Change Order Issued by the City of Gloucester and Use of Grant Funds, January 2010.
- City of Springfield Towing Contract With the Springfield Towing Alliance, January 2010.
- Inspector General's Investigation Leads to Guilty Pleas in MBTA No-Show Case, January 2010.
- Letter to Dr. John Warner, Chair, Record Conservation Board, Requesting an Opinion as to Whether Certain Records Related to Charter School Applicants are Public Records, January 2010.
- Report to Senator Bruce E. Tarr and State Representative Ann-Margaret Ferrante Regarding the Granting of a School Charter to the Gloucester Community Arts Charter School, January 2010.
- Letter to Governor Deval Patrick Regarding the Granting of a School Charter to the Gloucester Community Arts Charter School, January 2010.