



Office of the
Inspector General
Commonwealth of Massachusetts

Gregory W. Sullivan
Inspector General

2011 Annual Report

April 2012

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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 2011:

- A case that resulted in a former Methuen school business manager pleading guilty to embezzlement and larceny charges;
- A case resulting in a payment of \$800,000 from Verizon New England to the Commonwealth;
- An investigation that led to a former non-profit employee being indicted for a kickback scheme.

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

Sincerely,

A handwritten signature in black ink that reads "Gregory W. Sullivan".

Gregory W. Sullivan
Inspector General

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2011 Inspector General Council

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Table of Contents

INTRODUCTION.....	1
INVESTIGATIONS AND REVIEWS.....	3
RECOVERY OF FUNDS.....	17
FINANCIAL INVESTIGATIONS.....	21
AMERICAN RECOVERY AND REINVESTMENT ACT OVERSIGHT.....	27
HEALTH SAFETY NET AUDIT UNIT.....	43
PUBLIC DESIGN AND CONSTRUCTION.....	45
REAL ESTATE DEALINGS.....	49
LOCAL GOVERNMENT PROCUREMENT ASSISTANCE AND ENFORCEMENT.....	51
LEGISLATIVE REVIEWS.....	55
LEGISLATIVE RECOMMENDATIONS: 2011-2012 SESSION.....	59
LISTING OF 2011 REPORTS AND PUBLICATIONS.....	61

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Introduction

The Massachusetts Office of the Inspector General (OIG or Office) is the oldest state-level inspector general's office in the nation.

It was established in 1981 on the recommendation of the Special Commission Concerning 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 the 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 provides the authority for the Inspector General 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, computer experts and analysts to investigate fraud, waste, and abuse of public resources. In addition, the Office employs attorneys specializing in procurement to assist local governmental officials with best value

contracting under the Uniform Procurement Act, M.G.L. c.30B. Such attorneys also assist state officials with procurement-related questions and concerns. 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 – if 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 violations of law to the appropriate authorities, including the Massachusetts Attorney General and the U.S. Attorney for the District of Massachusetts.

Investigations and Reviews

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 2011, the Inspector General reported complaints to and worked with a host of agencies, including: the Federal Bureau of Investigation (FBI); 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; the Massachusetts School Building Authority; 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 To Manufacturing False Bids

An investigation by the Office of the Inspector General resulted in a Methuen contractor pleading guilty in Salem Superior Court to 12 counts of government procurement fraud with regard to bidding on Methuen municipal contracts 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 sentenced to one year in the House of Correction, 30 days to be served, the balance suspended for three years with probation. As a condition of his probation, Medugno is precluded from directly or indirectly participating in any public service contracts, and must perform 200 hours of community service.

As the winning contractor, Medugno did work for the Methuen School Department, the Methuen Housing Authority, and the Methuen Department of Public Works. Medugno's fraudulent submission of bids took place from 2004 to 2009 and the total amount Medugno received as a result of the 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 were not 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 Methuen School Department Business Manager Pleads Guilty to Embezzlement and Larceny

A joint investigative effort of the Massachusetts Office of the Inspector General, the Essex County District Attorney's Office, the Methuen Police Department and the FBI, Lowell Resident Agency, has led to the guilty plea in Lawrence District Court of former Methuen School Department Business Manager Joseph Salvo. Salvo pled guilty to embezzlement by a municipal officer of municipal property and larceny over \$250 by misuse of school credit cards to purchase items for personal use. The total cost of the goods was approximately \$38,000. The goods purchased were never placed in the school department's inventory and were kept by Salvo for personal use.

Judge Michael Brooks sentenced Salvo, 66, of Methuen, to six months in the Essex County House of Correction, 90 days to be served. The balance was suspended for one year with probation.

The scheme for which Salvo pled guilty took place from November, 2005 until his sudden resignation in 2008. Investigators believe there were more items purchased prior to 2005, but the statute of limitations had expired. Among the items purchased were two desk top computers, two high end laptops, three scanners, four high end cameras, a number of industrial hammer drills, two ladder systems, Italian tile, a fax machine, a miter saw, an air compressor and a printer.

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 (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 a number of internal control deficiencies that allowed the suspected misappropriation to occur.

The OIG made multiple recommendations to the City. 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 abide by appropriate conduct. The OIG recommended that the City 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 OIG also recommended that the City 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. Lastly, the OIG advised that the Collector should consider the use of competitive procurements for banking and deputy collector services and the Collector should implement reasonable internal and management controls.

Boston Fire Department Disability Pension Abuses

In January 2008 the Boston Globe reported widespread pension abuse at the Boston Fire Department. The story reported that 102 Boston firefighters claimed permanent and disabling job-related injuries while temporarily filling in for a superior at a higher pay grade, thereby increasing their pensions by an average of \$10,300 a year for the rest of their life. This practice was also referred to as the "king for a day" pension rule.

Subsequent to the Globe's report, the United States Attorney's Office opened an investigation regarding this matter and contacted the OIG for assistance. As the case developed, the Federal Bureau of Investigation and the Boston Police Department joined the investigation.

The investigation resulted in the indictment of two former Boston firefighters by a Federal Grand Jury in October 2009. The firefighters were charged with mail fraud involving their applications for accidental disability pensions. In addition, a clerk in the Boston Fire Department was indicted at the same time and charged with perjury and obstructing the

federal grand jury investigation. The clerk subsequently entered a guilty plea to those charges and was sentenced to two years probation and 200 hours of community service.

One firefighter, a District Fire Chief, was accused of filing a false accidental disability application claiming that he suffered a career ending injury while moving a box of files. At the time of the alleged accident, the District Fire Chief was working for one day in an acting capacity for his superior officer. The indictment charged that while claiming to be totally and permanently disabled by his box moving injury, he sought to obtain benefits at a higher grade salary, including tax-free leave pay and a higher accidental disability retirement pension.

After trial, before a United States District Judge in October 2011, the firefighter was acquitted of the charges set forth in the indictment. Upon finding the defendant not guilty, the Federal Judge commented from the bench that “the disability issue in the Boston Fire Department lies not with this defendant, but with a system...the fire department’s universal standards applicable to all ages and ranks, renders almost every elderly fireman eligible for a disability retirement.” The Judge continued by saying that “This system is patently flawed and abuses the taxpayers of the City of Boston. It should not be allowed to continue in its present form. The United States Government deserves great credit for exposing this travesty of a disability system to public scrutiny.”

During the investigation of this matter, the Massachusetts Legislature amended M.G.L. c.32, §7 and inserted new language which abolished the so called “king for a day” rule. Presently, it is unlawful for a subordinate to take his superior’s place temporarily, sustain injury, and seek a disability based on his superior’s higher salary.

The second firefighter, a Fire Inspector at the Boston Fire Department, was indicted for mail fraud in connection with his claim that he fell in March 2008 while walking down the stairs at a fire station in Jamaica Plain. The Fire Inspector claimed that this fall left him totally and permanently disabled. At the time of the alleged injury, the Fire Inspector was assigned to Fire Prevention, a job which did not require fighting fires. This assignment required him to inspect buildings and to complete various paperwork related to those inspections.

The Fire Inspector submitted an application in April 2008 for accidental disability retirement. In the application, he claimed that he was permanently and totally disabled as a result of his March 2008 fall. The Fire Inspector failed to disclose his repeated visits to gyms where he trained for a May 2008 bodybuilding competition. This scheme was aimed

at obtaining tax-free benefits and an inflated accidental disability retirement pension.

After trial in the United States District Court, the jury returned a not guilty verdict. The Boston Globe later reported that jurors revealed, in explaining the not guilty verdict, that the panel of jurors believed that the Fire Inspector was guilty of fraud. However, one of the jurors told the Globe "We didn't feel that the prosecution made the case that it was reasonable and foreseeable that the mail would be used to further his scheme."

The Commonwealth of Massachusetts does not have a general fraud statute similar to the federal mail fraud statute. In order to provide state and local prosecutors with the ability to investigate and prosecute fraud cases similar to this one, the OIG has filed a bill to make fraud against the Commonwealth a punishable crime. See House bill 9 – 2011 Legislation, "An Act Relative to Fraud." The proposed bill does not require the use of the mail to determine guilt. A statute of this type would go a long way towards curbing fraud against the taxpayers.

Investigation Leads to State Ethics Commission Issuance of an Order to Show Cause Involving Winthrop Harbormaster Charles Famolare, III

In December 2008, the OIG initiated an investigation based on information alleging that Winthrop Harbormaster Charles Famolare, III had improperly received from the Boston Towing and Transportation Company (BTTC), Boston, two finger pier floats, complete with installation to Famolare's private dock, as well as free repairs to his private Jet Ski float.

At the request of the State Ethics Commission, information from the Inspector General's investigation involving Famolare's receipt of the finger piers and free repairs performed on Famolare's private Jet Ski float was shared with that office.

BTTC had entered into a contract with the Town of Winthrop to build a pier in Winthrop Harbor. The total cost of the contract based on the State Ethics Commission investigation was approximately \$2,000,000, and the value of the finger piers was nearly \$7,000.

On July 21, 2011, the State Ethics Commission issued an Order to Show Cause alleging that Famolare violated M.G.L. c.268A, the conflict of interest law.

Investigation into the West Newbury Finance Department

On November 1, 2010, the OIG received information that the West Newbury Finance Director (who no longer holds the position) had allegedly caused herself to be paid on thirteen occasions an annual Merit

Bonus of \$2,500 to which she was not entitled either by the terms of her contract or by authorization of the Board of Selectmen.

On December 8, 2010, the West Newbury Board of Selectmen (the BoS) voted in executive session to “request an audit by the Inspector General’s Office regarding the inconsistencies in the Finance Department.” These “inconsistencies” included both the annual Merit Bonus referred to above and certain salary overpayments allegedly made to the Finance Director.

In February of 2011, the BoS retained the firm of Melanson Heath & Company, P.C. (Melanson Heath) to “. . . perform a forensic internal control review . . .” to “. . . assist . . . in evaluating internal controls over payroll.” The review would focus on salaries paid to “. . . the top ten compensated Town employees” (which would include the former Finance Director) and an “additional 10 employees randomly sampled from remaining employees.” Another principal area of the review would be “checking contracts for employees with contracts to see that compensation paid reconciles to the contracts.”

The OIG’s review included a review of relevant records; interviews of several current and former Selectpersons whose terms covered the periods in question; and current and former employees of the Town’s Finance Department (including the former Finance Director and current and former key personnel within the Finance Department). The draft copy of the Melanson Heath report was also reviewed.

As a result of this detailed review, the OIG concluded that the former West Newbury Finance Director did not engage in wrongdoing with respect to receipt of Merit Bonuses and salary overpayments from the Town of West Newbury.

The OIG’s investigation, and Melanson Heath’s review, identified weaknesses in the practices for calculating and paying Town employee’s salaries. Policies and procedures need to be strengthened to correct these weaknesses. Also, the BoS must craft more precise employee contracts with less ambiguity. The OIG recommended that Town officials establish practices that more clearly delineate and document official decisions. Town employee’s contracts should precisely detail the terms and conditions of employment, including duties and responsibilities, and the specific amounts of remuneration for such employment including so-called merit bonuses (if appropriate).

The OIG anticipates that efforts will be made to recoup any overpayments as identified in the final Melanson Heath report.

Investigation into the Wareham Free Library

This investigation was initiated by the OIG after allegations were made in the Wareham Observer newspaper that 123 donors of the Wareham Free

Library, the former Library Director, the members of the Library Trustees' Corporation, and the Friends of the Wareham Free Library were engaged in a donor kickback and embezzlement conspiracy between 1995 and 2005. The Observer alleged that these 123 persons made frequent small donations to the Library and received substantial portions of their donations back in cash payments. The Observer further alleged that these donors cheated on their income tax returns by reporting the full amount of their donations as charitable gifts. Moreover, it was alleged that some of the conspirators laundered in excess of \$3 million through the Library and pocketed a substantial portion of the money. According to the story, \$1.5 million was embezzled from the Library in order to replenish the donor kickbacks and that the embezzled money came from used book sales and coin operated copy machines located in the Library.

The OIG investigation did not reveal any evidence to substantiate or corroborate the allegations contained in the Observer story. The investigation revealed the primary sources for the monetary funds in the possession and control of the Trustees' Corporation and the Friends. The review of these financial records during the critical time frame shows that the persons involved in the alleged scheme never had access to funds amounting to more than \$3 million or funds anywhere close to that amount.

The investigation did not show any evidence of embezzlement of funds, cash kickbacks to donors, multiple repeat donations of money by 123 individuals or anything remotely suggesting sustained organized criminality involving multiple conspirators. In fact, eight of the eleven donors alleged to be involved in the kickback scheme were not found in the donor lists reviewed by the OIG.

The Observer story alleged that the primary sources for the \$1.5 million in embezzled funds were the book sales carried out by the Friends and the removal of money from the coin operated copy machines at the Library. The OIG investigation demonstrated that the money obtained from the coin operated copy machines never went to Library personnel.

The amount of money obtained from book sales by the Friends was de minimus and the amount of revenue generated by these sales could never have supported the kind of widespread organized criminal scheme detailed in the Observer story.

In summary, this investigation disclosed no evidence that a donor kickback and embezzlement conspiracy ever took place.

Investigation into the Westport Highway Department

At the request of the Westport (Town) Town Administrator, the OIG initiated an investigation into matters involving the Westport Highway Department (WHD) in February, 2010. The complaint concerned certain

possibly inappropriate actions that were alleged to have been taken by the Westport Highway Surveyor (Surveyor). Among other things, the complaint alleged that the Surveyor had authorized WHD employees to give away Town purchased cold patch and chip seal to a local Contractor without requiring payment. This investigation focused upon that allegation and developed additional areas of concern which included bidding practices related to the purchase and delivery of sand and the use of WHD manpower, time and equipment pertaining to the removal of large stones from a former Westport Selectman's private property.

The investigation revealed several categories of questionable conduct and decision making on the part of the Westport Highway Department Surveyor. First, the Surveyor instructed his Foreman to give a private contractor several truckloads of WHD cold patch with an approximate value of \$3,654. Second, he instructed his Foreman to give the same private contractor numerous truckloads of "clean" and "dirty" stone that is used in Westport's chip seal road repair process. The combined approximate value of the "clean" and "dirty" stone given to the private contractor is estimated to be \$5,376. Third, he instructed the Foreman to give several truckloads of WHD gravel to this contractor. The estimated value of this gravel is \$950.40. Fourth, he instructed the Foreman to give several truckloads of granite that belonged to the WHD to this private contractor. Fifth, the Surveyor, either through gross negligence or deliberate indifference, failed to follow the Commonwealth's statutory bidding laws pertaining to the purchase of supplies and services and the disposal of surplus property on several occasions. Finally, the Surveyor used extremely poor judgment in authorizing the use of WHD manpower, time and equipment in the removal of large rocks and boulders from a former Selectman's private property.

The WHD Surveyor made numerous poor decisions which raise serious questions about his judgment and ability to lead an important government entity. Moreover, his explanation of the rationale supporting those decisions and his denials of misconduct raise serious questions about his honesty and integrity as an elected public official.

Based upon the numerous serious management and leadership problems revealed during this investigation the Inspector General recommended:

- The Board of Selectman refer the contents of the OIG letter to the Bristol County District Attorney's office and the State Ethics Commission.
- The Board of Selectmen consider requiring all Town officials who have anything to do with public purchasing to receive appropriate training concerning the legal requirements found in the public bidding laws including, M.G.L. c. 30B, c. 149 and c. 30, §39M.

- The Westport Highway Surveyor is definitely in need of training in the public purchasing laws and regulations and should immediately seek training in this regard.

Update on Haverhill Highway Department Case

In June 2009, a Salem Superior court jury convicted two employees of the city of Haverhill's Highway Department, James Flaherty, Superintendent and his son Kevin Flaherty, Foreman, of larceny and other charges in connection with a scheme to use city personnel, material, and equipment on private contracting jobs on city time over a period of several years. Prior to trial, James Flaherty pled guilty to filing false tax returns.

The Inspector General's Office investigated this case with the Massachusetts State Police and the Office of the Attorney General, which also prosecuted the case.

As a result of the conviction, the court sentenced James Flaherty to two years in the House of Correction with six months to serve and the balance suspended. The court also ordered him to file accurate tax returns and pay the state what he owes in unpaid taxes. The court sentenced Kevin Flaherty to two years in the House of Correction with four months to serve and the balance suspended and ordered him to pay \$857 in restitution to the city and perform 200 hours of community service.

Subsequent to the conviction, the Haverhill Retirement Board stripped James Flaherty of his pension. James Flaherty unsuccessfully appealed the Board's decision. In a 2011 Superior Court ruling, the court upheld the Board's decision. The ruling also ordered Flaherty to repay \$64,008 in pension benefits that had been paid to him prior to his conviction.

Assignment of Moorings to Private Businesses in Newbury

The OIG received a complaint in March, 2010 questioning the fairness and equity of the Town's process of assigning moorings to private businesses located on the Parker River. Additionally, the complaint alleged certain conflicts of interest associated with the appointment of members of a Harbormaster Advisory Task Force (Task Force) by the Newbury Board of Selectmen (Newbury BoS). The conflict of interest allegation focused on the claim that the persons appointed to the Task Force either have businesses or are associated with businesses that were directly affected by some of the recommendations made by the Task Force to the Selectmen. Based on the investigation, the OIG's recommendations included:

- The Department of Environmental Protection (DEP) should reexamine the regulation 310 C.M.R. §9.07(2)(d) and clarify the language in this regulation to make it clear that persons being considered for one of

these moorings be taken from a list maintained in a fair and equitable way by the harbormaster.

- DEP should conduct an immediate compliance audit with respect to River Front Marine's unauthorized expansion of its TDocks in the Parker River and its apparent wish to place two 220 foot long floating docks in the river, in light of the serious public safety concerns raised by the Harbormaster.
- DEP should review the River Front Marine expansion plans submitted to the Army Corps of Engineers (Army Corps) by River Front in 2010 to determine whether the two 220 foot floating docks pictured in the plans are moorings under the control of the Harbormaster or boat structures under the control of DEP. If they are boat structures, DEP should make a determination, in consultation with the Harbormaster, as to whether the proposed location of these docks presents a public safety issue for the boating public.
- The Army Corps should review and reevaluate its decision to retroactively approve River Front Marine's application for the Massachusetts General Permit issued to River Front in June, 2010, in light of the public safety issues raised by the Newbury Harbormaster.
- The Town should take all necessary steps to collect the full amount of commercial mooring fees owed by River Front Marine for 2009.
- The Town should review and rescind its decision to discontinue commercial mooring fees; fees for non powered boats; and its decision to grandfather the number of moorings provided to private businesses in light of the serious potential conflict of interest and legal issues.
- The Town should report to the State Ethics Commission the facts and details concerning the appointment of the members of the Harbormaster Advisory Task Force (Task Force) and the facts concerning the Newbury BoS Chairman's decision to vote to adopt the Task Force's recommendation to discontinue commercial mooring fees and grandfather moorings for private businesses.

Review of the Stoneham Public Works Parking Facility

The OIG conducted a review in response to a complaint that the Town of Stoneham allowed vehicles owned by a private construction firm to be parked at the town's Department of Public Works (DPW) facility during the winter. An investigation revealed that three vehicles belonging to a construction company contracted by Stoneham for snow removal were indeed garaged at the DPW facility. In a July 2011 letter to the town, the OIG presented the following issues and recommendations:

- Oral agreements between town officials and private contractors regarding the use of public property are vulnerable to fraud and abuse and raise accountability and transparency concerns for these agreements.
- Liability issues exist when private parties use public facilities, requiring Stoneham to ensure that it is protected against liability claims.
- There is, at a minimum, an appearance of impropriety when private interests are allowed to use public property, stemming from public perception of misuse or preferential treatment.
- Stoneham may be losing an opportunity, either to receive better pricing for snow-removal contracts by incentivizing the parking facility or to generate revenue by publicly offering this space for lease pursuant to M.G.L. c. 30B.

As a result of these findings, the OIG recommended that Stoneham discontinue the practice of allowing vehicles to garage on public property unless part of specific written contractual arrangements. Even in these cases, the town must take the necessary precautions to protect its interests.

Review of Consulting Contracts for Solar Facilities Resulted in Invalid Contracts

In 2011, the Office was asked to review requests for proposals (RFP) for the lease of town owned land to a solar photovoltaic power generating system provider (PV provider) solicited by nine separate municipalities, Ashby, Ayer, Clinton, Gardiner, Orange, Palmer, Shirley, Sturbridge and Westminster. Each municipality had entered into a consultant contract with Muni-Sun, LLC (Muni-Sun) whereby Muni-Sun would perform the procurement for the lease of the land under M.G.L. c. 30B at no cost to the municipality. The consultant's contracts and RFP's for land called for the chosen PV provider to pay a fee to Muni-Sun based on the amount of energy generated from the land over the term of the resulting contract, either 20 or 30 years. Under this payment structure, it was estimated that Muni-Sun would earn between \$7.2 and \$10.8 million over the terms of the nine contracts. The Office recommended that the towns develop PV systems in a manner more favorable to the taxpayers.

Review of Merrimack Education Center, Inc. and the Merrimack Special Education Collaborative

A year-long review by the OIG into the complex relationship between the Merrimack Education Center, Inc., (MEC), a private non-profit organization, and the Merrimack Special Education Collaborative (MSEC), a public entity, revealed that John B. Barranco, the longtime executive director of both MEC and MSEC, had used the organizations to enrich

himself and his friends.

In the spring and summer of 2011, the OIG released a series of letters providing information to the State Retirement Board, the Massachusetts Teachers Retirement Board, MSEC's executive directors and MEC's board. The letters included the following information:

- Barranco had given a no-show job to Richard McDonough, the lobbyist convicted in a federal corruption case involving Cognos and former House Speaker Sal DiMasi;
- MEC continued to charge MSEC for more than half Barranco's salary after his retirement from the public entity in 2005;
- Under a series of no-bid contracts, MSEC had paid MEC more than \$18 million – and overpaid at least \$11.5 million – for services, including rent, renovations, personnel, IT and administrative services;
- Barranco had enriched himself by inflating his own salary and bonuses and charging personal expenses to MEC and MSEC.

As a result of the OIG's work:

- The Massachusetts Teachers Retirement Board halted Barranco's \$158,000-a-year pension until at least 2018;
- The State Retirement Board halted McDonough's pension;
- MEC fired Barranco;
- MSEC fired the co-executive directors who answered to Barranco.

Former Speaker Salvatore DiMasi and Lobbyist Richard McDonough Convicted of Federal Corruption Charges in Cognos Case

In June 2011, following several weeks of testimony in federal court in Boston, a jury found former Massachusetts House Speaker Salvatore F. DiMasi guilty of receiving kickbacks in exchange for pressuring state officials to purchase \$17.5 million in software from a firm called Cognos. Richard McDonough, a close friend of DiMasi, was Cognos' lobbyist during the period when the state bought the software. He also was found guilty of most of the charges against him. DiMasi and McDonough were sentenced to eight and seven years, respectively. A third defendant, Richard Vitale, DiMasi's accountant, was acquitted on all charges. A fourth

defendant, Cognos salesman Joseph Lally, pleaded guilty shortly before the trial started and testified at the trial.

Staff of the Inspector General's office was instrumental in investigating the case. The OIG initiated the investigation in mid-October 2007 with an inquiry into the faulty procurement two months earlier of \$13 million in performance management software from Cognos. In early 2008, the Inspector General told the Secretary of Administration and Finance that the procurement was invalid and that the state should return the software and recover the \$13 million. The OIG also investigated a second contract with Cognos – a \$4.5 million software purchase by the Department of Education in 2006.

Several elements of the Cognos case that played a prominent role at DiMasi's trial were first uncovered by the Inspector General's staff. For example, the OIG established that:

- Cognos had paid DiMasi's law associate, Steven J. Topazio, \$125,000 beginning in April 2005 and ending in March 2007, immediately after the bond bill was approved;
- Topazio performed no work in exchange for the \$125,000;
- The language directing the state to buy performance management software was inserted in a bond bill at DiMasi's request.

In October 2008, this information was provided by OIG staff to the FBI and prosecutors at the U.S. Attorney's office. Topazio ultimately became a key witness during the trial and testified that he gave DiMasi almost half of the \$125,000 received from Cognos. He also testified that McDonough helped arrange his contracts with Cognos.

The OIG also obtained records of financial transactions by Cognos and by Lally's firm, Montvale Solutions LLC. The OIG's analysis established that:

- Cognos paid Montvale Solutions a commission of \$891,000 in August 2006 in connection with the \$4.5 million DOE contract. Shortly afterwards, Montvale Solutions in turn paid \$100,000 each to McDonough's firm and an entity controlled by Richard Vitale, DiMasi's former accountant and campaign treasurer.
- On Aug. 31, 2007, Cognos paid a \$2.8 million commission to Montvale Solutions in connection with the \$13 million performance management contract. The same day, Montvale paid \$500,000 to Vitale's firm and \$200,000 to McDonough.

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Recovery of Funds

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

OIG Investigation Resulted in Verizon New England Agreeing to Pay the Commonwealth of Massachusetts \$800,000

Verizon New England agreed to pay the Commonwealth of Massachusetts \$800,000 as the result of an investigation by the Office of the Inspector General.

In June 2009, the OIG learned that Verizon had been overcharging municipalities for Centrex telephone service since 2006. Emails sent to the state Operational Services Division showed that Verizon was alerted to the billing problem by an outside consultant in the summer of 2006. Emails also showed that Verizon had promised to fix the problem and refund its customers within months.

Instead, Verizon only refunded the customers who noticed their inflated bills and complained. Because of the complexity of Verizon's bills, fewer than half of Verizon's municipal customers noticed the error. From 2006 until 2009, Verizon refunded some \$1.5 million to its municipal customers.

After the OIG began its investigation in 2009 Verizon quickly refunded another \$1.5 million to its municipal customers. The OIG brought its investigation to the Office of the Attorney General in October 2009. In December 2011, Verizon agreed to pay an additional \$800,000 in interest and penalties to settle the case.

Former State Senator Sentenced for Wire Fraud Conviction

The OIG assisted the Federal Bureau of Investigation and the Lowell Police Department in an investigation that led to a guilty plea of wire fraud by a former state senator.

In August 2011, Bernard Joseph Tully, a former Massachusetts state senator and former city manager for Lowell, pled guilty for devising a scheme to defraud a Boston-area businessman out of approximately \$18,000 by falsely representing that Tully and a co-conspirator were using the funds to bribe public officials.

In early 2009, the Registry of Motor Vehicles (RMV) determined that for financial reasons, they would close the Lowell RMV, located in private space owned by a Boston area businessman. When Tully learned that the Lowell RMV was closing, he contacted the businessman who owned the space. Tully told the businessman that if he paid him some money, Tully would make sure that a public official, who Tully represented was a state senator, would find money in order to keep the RMV in the businessman's commercial space. Sometime later, Tully contacted the businessman again and told him that he had to pay Tully so that the public official could be paid, or else the RMV would move out of Lowell.

On or about July 3, 2009, the RMV announced that they would be closing the Lowell office, as well as other RMV offices. Tully subsequently visited the businessman with a co-conspirator. Tully told the businessman that it would cost \$20,000 to keep the RMV in the space. Tully told the businessman that he, Tully, would start making phone calls and a co-conspirator stated that he would talk to the public official.

Between November 2009 and March 2010, the businessman paid Tully and the co-conspirator approximately \$13,000 under the guise of bribe payments designed to secure the official assistance of various public officials. In fact, Tully and the co-conspirator never paid money to any public officials.

Tully admitted that he told the businessman that he was "throwing money around" at elected officials, but in actuality did not. He also admitted that he did this to give the impression that he, Tully, was influencing the legislative delegation.

In December 2011, U.S. District Judge Patti B. Saris sentenced Mr. Tully to four months of home confinement, two years of probation and \$18,000 restitution, related to his involvement in a scheme to prevent the RMV from relocating its Lowell office.

Councilman Defrauded the City of Lowell through an Illegal Sewer Connection Scheme

The OIG conducted an investigation to determine whether the developer of a commercial building in Chelmsford had properly and legally connected a sewer line into the Lowell sanitary sewer system.

In 2008, the development site at 190 Middlesex Street, Chelmsford was owned and developed for commercial use by Alan Kazanjian (Kazanjian) through his company Kazanjian Enterprises, Inc. During the construction period for the development of this Chelmsford property, Kazanjian served as a Lowell City Councilman.

The OIG investigation concluded that the sewer line was not authorized/approved by the City of Lowell, was not connected in accordance with the

City of Lowell's Code of Ordinances, and was done in furtherance of a scheme by the City Councilman (Kazanjian) to keep construction costs at a minimum while defrauding the City of Lowell and Town of Chelmsford ratepayers.

The Middlesex County District Attorney's Office declined to prosecute the case but encouraged this Office to proceed with a public disclosure of the facts and circumstances surrounding the illegal sewer line connection. In March 2011, this Office issued a public letter highlighting the details of this illegal sewer connection and also provided recommendations for improving the petition and approval process for future sewer line tie-ins.

Subsequent to the issuance of this public letter, Kazanjian agreed to pay the City the \$3,419 sewer connection fee and a fine of \$15,000.

Chapter 40B Settlement Agreements between Municipalities and Developers

During 2011 two Massachusetts towns reached financial settlements with Chapter 40B developers that had been investigated in prior years by this Office.

Berkley: The Town of Berkley reached a \$275,000 settlement with Meridian at Padelford, Inc., the Rhode Island-based Chapter 40B developer of the Preserve at Padelford Woods, a forty-three unit affordable housing development at Parson's Walk in Berkley.

In February 2007, the OIG issued a report to the Town of Berkley regarding an investigation of the Padelford Woods development. The investigation was focused on the developer's compliance with the cost reporting and profit limitation requirements of the law. The investigation highlighted significant issues including major cost adjustments, especially with respect to land valuation and related party transactions. Although the developer, through its cost certification, claimed no excess profits, this Office identified over \$360,000 that was owed by the developer to the town.

Subsequent to the issuance of the OIG report, the Town of Berkley filed a civil suit against Meridian at Padelford, Inc. in order to recover the excess profits owed to the town by the developer. The suit was settled in December 2011. As a result of the settlement, the Town of Berkley will receive \$275,000 paid in five installments over five years.

Acton: The Town of Acton entered into an agreement with the owners of Crossroads Development, LLC, the local Chapter 40B developer of the Crossroads housing project, a twelve unit affordable housing development on Main Street in Acton. The developers agreed to perform renovation work on the town-owned Morrison Farm property in lieu of continued litigation that was initiated by the town of Acton in order to recover excess development profits owed to it by the Chapter 40B developer.

In May 2006, the OIG issued a report to the Town of Acton regarding its investigation of the Crossroads development. The review was primarily focused on the developer's compliance with the cost reporting and profit limitation requirements of the law. The investigation highlighted significant issues including major cost adjustments, especially with respect to related party transactions. Although the developer, through its cost certification, claimed no excess profits, this Office identified over \$750,000 that was owed by the developer to the town.

Subsequent to the issuance of the OIG report, the Town of Acton filed a civil suit against the developer to recover these excess profits. In September 2009 the Massachusetts Attorney General also filed a suit against the developer for alleged violation of the False Claims Act by submitting false cost certifications to the Town of Acton. The developer's agreement to perform work for the Town of Acton, resulted in both the Attorney General and the town dismissing their lawsuits against the developer.

Additionally, there have been other financial settlements in prior years between towns and developers for projects that had been investigated by this Office. These include a \$500,000 settlement for a development in Wakefield and a \$2.3 million settlement for a Braintree project.

Financial Investigations

Former Employee of Non-Profit Indicted in Kickback Scheme

A joint investigation by the OIG, along with federal agencies (HUD-OIG, FBI, and the United States Attorney's Office) led to the indictment in April 2011 of Charles Feeney (Feeney) of North Billerica for soliciting, demanding and accepting kickbacks.

Feeney, the former Facilities Director of non-profits Walnut Street Center (WSC) and Community Alternative Residential Environment, Inc. (CARE) was charged in a two-count indictment for kickbacks in connection with the renovation of a building that now serves, in part, as a day facility for disabled adults.

The indictment, in part, alleges that, Feeney approached a contractor and proposed to award him/her the general contract to renovate the building. In exchange, Feeney demanded that the contractor award the electrical subcontract on the renovation to Feeney's private electrical business. The indictment further alleges that Feeney ultimately received more than \$180,000 in payments from the contractor in connection with the renovation. It is alleged that these payments included, among others, \$7,500 to reimburse Feeney for the purchase of a bucket truck that was not required for the renovation but that Feeney wanted to use in his private business; and \$7,500 for windows, even though the contractor himself purchased them and had hired a different subcontractor to install them.

It is further alleged that in order to inflate his profits in connection with the electrical subcontract, Feeney arranged to place some of the individuals whom he had engaged to perform electrical work on the renovation on WSC's payroll. These individuals allegedly continued performing electrical work on the renovation while being paid by WSC. Accordingly, WSC and CARE paid twice for portions of the electrical work on the project: directly via the WSC payroll, and indirectly via the subcontract with Feeney's company.

If convicted on these charges, Feeney faces up to 10 years imprisonment, to be followed by up to three years of supervised release and a \$250,000 fine on each count.

As a result of the Feeney indictment, CARE Executive Director John Keegan resigned.

Basis for Calculation of Pension Benefits for the Executive Director of the Chelsea Housing Authority

In November 2011, this Office, in reviewing matters regarding the compensation paid to Michael McLaughlin, the former Executive Director of the Chelsea Housing Authority, provided pertinent information to both the Chelsea Retirement Board and to the Public Employees Retirement Administration Commission (PERAC) for consideration when determining pension benefits for the recently retired director.

This Office concluded that McLaughlin's reported compensation level of \$360,383 was not supportable under the operative law and regulations of housing authorities and therefore the basis of McLaughlin's pension benefit must be effectively reduced from \$360,383 to a substantially lesser amount.

State regulations require that the employment agreements for executive directors of housing authorities be approved by the Department of Housing and Community Development (DHCD) and that these agreements must be in accordance with DHCD guidelines. Since there was no authority in DHCD's guidance that would support a salary amount of \$360,383 and since this Office found no evidence or record that DHCD approved an employment agreement for McLaughlin totaling \$360,383, this Office concluded that the Chelsea Housing Authority was out of compliance with these provisions and the amount of \$360,383 could not support a basis for McLaughlin's pension calculation.

In addition, this Office noted that housing authorities are required to submit budgets certified by the local board of commissioners for approval by DHCD. The most recent budget request submitted to DHCD for approval reflected a composite salary amount for McLaughlin totaling \$160,415 or approximately \$200,000 less than his actual compensation for the current year.

These findings highlighted that the Chelsea Housing Authority was compensating McLaughlin in the amount of \$360,383 in violation of DHCD policy and regulation. This Office further concluded that vigilance was necessary to ensure that the basis for calculation of McLaughlin's pension benefits does not include compensation paid in excess of legally authorized amounts.

Fraud and Abuse in the Development of Affordable Housing through Chapter 40B

In 2011, this Office refocused its efforts in investigating developer fraud and abuse associated with the development of affordable housing in the commonwealth through the use of Massachusetts General Law Chapter 40B.

Chapter 40B encourages the development of affordable housing by granting developers waivers from zoning and other local ordinances and bylaws in return for an agreement from the developer to provide a percentage of the units to income-qualified affordable buyers and a commitment from the developer to earn a limited development profit. Although these Chapter 40B profits are limited, they are typically significantly greater than what a for-profit developer could expect to earn from developing housing under existing local zoning bylaws.

At the end of a Chapter 40B project the developer is required to submit a document called a Cost Certification. This document is the developer's certification that its costs and revenues to develop the project were as stated. From this Cost Certification any profit above an agreed upon level, typically 20% of the total development costs, is to be passed on to the municipality to promote additional local affordable housing opportunities.

Sandwich's Woodside Village Development

This Office completed a review of the Cost Certification and the associated limited dividend determination for the Woodside Village housing development, a 31 unit home ownership project built in Sandwich by Southside Realty Trust (John McShane, Trustee). In contrast to the developer's Cost Certification that represented to the town of Sandwich that there were no excess profits, this Office conservatively estimated that there is at least \$171,000 in excess profits owed to the town.

The primary issues that generate this excess are related to an overstatement of the land value and the recognition of sales income and construction costs for two housing units not previously recorded in the Cost Certification by the developer. The actual excess profits may in fact be significantly higher than the \$171,000 identified. The OIG estimated that the excess profits may be more in the vicinity of \$890,000 based on an assumed as-is site value under existing zoning without a comprehensive permit that this Office projects would be in line with the tax assessed value of the site.

In addition to the identified financial issues, this Office identified several troubling issues that present significant environmental concerns. The Woodside Village development, due to its location in sensitive water resource areas, necessitated the implementation of six denitrification systems and the execution of certain land use restrictions including the agreement to limit to 85 the total number of bedrooms on the site. Our investigation revealed that the development does not comply with the provisions of the "Grant of Title 5 Nitrogen Loading Restriction and Easement" as the total bedroom counts on the site have been exceeded. In addition, the developer failed to provide proper notification to the prospective property owners by referencing through the individual lot deeds the pertinent easements/restrictions.

Another shortcoming of this project is the fact that the denitrification systems, which are expensive to operate and maintain, were installed only on lots/homes sold to affordable/moderate rate home buyers. In addition to disproportionately financially burdening affordable/moderate rate homeowners with site wastewater management costs, there were related failures to adequately notify these homeowners of the existence and consequences of these systems.

Grafton's Hilltop Farms

This Office completed a review of the Cost Certification and the associated limited dividend determination for the Hilltop Farms housing development, a 256 unit home ownership project built by Pulte Homes Inc. (Pulte). In contrast to Pulte's Cost Certification that represented to the town of Grafton that there were no excess profits, this Office identified more than \$8.5 million of excess profits owed to the town.

Pulte underreported its development profits primarily through a process of expense padding. This included reclassifying and redefining profits into elements of development costs and by over-accruing expenses. Pulte's Cost Certification included a cost for land acquisition that was \$6.9 million more than what it had actually paid for the site. Not only was this method not allowed under Chapter 40B rules and guidelines in existence at the time the project was approved and the site purchase and sales agreement was executed, but the inflated land value was transacted on the Cost Certification through a one-sided accounting entry that violated generally accepted accounting principles.

This Office also found that Pulte padded its development costs through an over-accrual of expenses. Based on a small test sample of accounts, this Office identified over \$800,000 of expenses accrued by Pulte that had no subsequent cash payment or disbursement.

Adjustments to the Cost Certification proposed by this Office included the following:

- A reduction of \$6,900,000 in development costs in order to bring the land acquisition cost in line with actual expenditures.
- A reduction of \$818,527 for various development costs accrued by the developer that had no subsequent associated cash disbursement/expenditure.
- A reduction of \$2,197,603 to reflect developer overhead at the MHP guideline prescribed level.
- An increase of \$84,974 in sales revenue in order to reflect sales at market rate prices housing units sold to related parties as previously determined by CHAPA.

The Town has filed suit against Pulte.

Rehoboth Selectman Improperly Obtains an Affordable Housing Unit

This Office investigated the affordable housing lottery and the associated oversight process for the Horton Estates housing development in Rehoboth, built under the provisions of Chapter 40B. The investigation was focused on Michael Costello (Costello), a long-time Rehoboth Planning Board member, a recently elected (April 4, 2011) Chairman of the Board of Selectmen and an affordable housing lottery applicant and subsequent lottery “winner”.

Based on the OIG investigation, it was concluded that Costello improperly obtained for himself an affordable housing unit in the Horton Estates housing development. Costello was not eligible based on existing Chapter 40B Rules, Regulations and Guidelines to take advantage of this opportunity. However, through his false/misleading statements and associated actions, Costello abused the state’s affordable housing law. Through his abuse of the system, Costello was able to obtain a three bedroom home in this Chapter 40B development at the affordable sales price of \$155,000. At the time of his home purchase, similar market rate units in this development were selling for approximately \$400,000.

These findings were brought to the attention of the Massachusetts Attorney General’s Office and the Department of Housing and Community Development.

Letter to the Committee on Housing Regarding Chapter 40B

This Office reiterated to the Committee on Housing (the Honorable James B. Eldridge and the Honorable Kevin G. Honan) recommendations that if implemented will help diminish the incidences of fraud and abuse perpetrated under Chapter 40B. Highlighted below is a summary of these recommendations.

First, the issue of “reasonable profit” needs to be better defined. At the moment there is nothing concrete in the law to define reasonable profit. The Legislature should insert into the law a strong definition of reasonable profit that takes into account the multiplier effect density has on generating profits. If a developer goes over the reasonable profit, then the municipality should share in that excess profit. Without a strong definition, the abuses identified in Chapter 40B will continue.

Second, the issue of density for Chapter 40B must be addressed. As currently constituted through law, regulation and guidelines, there is almost no cap on density. This, combined with the loose definition of reasonable profit, makes for almost limitless profit at the expense of municipalities. A standard measure, such as four times the underlying

density that was formerly the de facto standard, or another, such as 16 units per acre, should be employed.

Third, a major overhaul of the oversight process is needed. The regulations and guidelines promulgated by DHCD do not provide enough mechanisms to hold developers accountable. Lack of a strong oversight process adversely impacts the amount of affordable housing that can be developed. Increased oversight should include:

- Memorialize a municipality's right to act as a party of interest in the Chapter 40B process.
- Municipalities should have access to all project financial information from the beginning of the process. This would provide another layer of oversight which would help DHCD identify potential fraud issues in individual projects from the outset.
- The law should explicitly state that excess funds must go to the municipality.
- Any transfer of comprehensive permit or project ownership should trigger the requirement for a full cost certification.
- Cost certifications should be conducted through a detailed audit following the more rigorous Government Auditing Standards as opposed to the current position of an examination.
- Appraisers and CPAs should be pre-qualified by DHCD and chosen by the municipality.
- The allowable land value should be based on the lower of the "as-is" appraised value or the actual purchase price of the land.
- Related-party transactions should be disclosed at the beginning of the process and full documentation should be required to justify the costs incurred. All related party transactions should reflect bona fide generally accepted accounting and taxable transactions between the related entities and should reflect actual costs incurred.
- In addition to the cost certification report, all Chapter 40B documents (such as project eligibility/site approval applications, pro formas, land valuations, and comprehensive permit, etc.) should be submitted under pains and penalties of perjury.

American Recovery and Reinvestment Act Oversight

On February 17, 2009, President Obama 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 law also required recipients of ARRA funds to report quarterly on how they are using the money. According to the Massachusetts Recovery and Reinvestment Office (MARRO), Massachusetts was awarded \$7.5 billion in ARRA funding, of which \$6.8 billion was spent through December 2011.

The OIG ARRA Team

Since 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. ARRA fund recipients included a range of school districts, municipalities, police departments, state agencies, nonprofits, regional transit authorities, and county commissions. In 2011, the team issued letters and advisories regarding a collection of grant programs involving nearly \$250 million in stimulus and associated federal, state, and local funds, 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. Examples of program evaluations include a review of a \$42 million Energy Efficiency and Conservation Block Grant Program and \$44.5 million in Homeless Prevention and Rapid Re-Housing Program grants. OIG staff members also communicate regularly with federal oversight officials regarding these programs.

ARRA Oversight

ARRA provides for a small amount of funding for central administrative costs. These funds are being used for MARRO, including a centralized reporting and monitoring system, and for the auditing and oversight functions of the Office of the State Auditor, the OIG, the Office of the Attorney General, the Office of the State Comptroller, and the Operational Services Division. In 2011, 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 assessments, control

environment and activity evaluations, accountability reviews, and compliance monitoring. The OIG has focused its efforts on direct recipients of ARRA funds (entities that received funds directly from the federal government rather than through state agencies). This focus was determined based on coordination with MARRO, the State Auditor, the STOP Fraud Task Force, and other oversight agencies.

MassDOT Procurement Guide

In July 2010, the OIG issued a review of the Massachusetts Department of Transportation's (MassDOT) procurement of 108 paratransit vans for \$5.5 million in ARRA funds. Following the OIG report outlining deficiencies in the procurement process, MassDOT responded by issuing a guide for procuring goods and services in excess of \$50,000. The OIG reviewed the MassDOT procurement guide and offered the following suggestions for future editions of the guide in a 2011 letter:

- A number of key terms, such as "Procurement Manager" and "Project Manager," are used interchangeably and inconsistently throughout the report; these and other terms should be clearly defined and used consistently throughout the guide.
- MassDOT should provide more guidance relative to the role of each evaluator and the manager of the procurement.
- A uniform process of scoring for most procurements should be used with some discretion relative to a weighting scheme or specific projects to avoid favoritism, fraud, waste, or abuse.
- The guide should have a separate section to address the process for conducting reverse auctions.
- Awarding a contract after bids have been evaluated is an integral part of any procurement; this information should be included in the guide.

Review of State Fiscal Stabilization Funding Spending

In 2010, the OIG reviewed \$106 million in FY2009 State Fiscal Stabilization Funding (SFSF) spending by public school districts, which used the funding for the purchase of goods and services. The review found several "red flags" for possible fraud. The OIG reviewed spending in more than 20 districts and sent letters to five school districts in 2010 with findings relating to ARRA compliance and fraud-prevention recommendations.

The OIG continued its investigation into SFSF in 2011 by sending six letters to five additional school districts. Just as in 2010, the OIG reviewed and confirmed the following special education (SPED) expenses:

- 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.

The OIG also had concerns about SFSF compliance:

- One school district was careless in its handling of contracts, failing to date them upon signature.
- Another school district did not comply with M.G.L. c. 30B in procuring office supplies and the services of a homeless liaison.
- Poor recordkeeping and lack of an asset management system at a third school district meant that it took weeks for OIG and district staff to identify where desktop computers purchased with SFSF money had been placed into service. Initially, it appeared that a majority of the computers could not be accounted for. However, all computers were eventually identified.

The OIG identified one school district that did not have a written contract with their special education vendor in violation of state regulation 603 CMR 10.05(7). In addition, the OIG found:

- The school district lacked adequate accountability and documentation for vendor activity:
 - Although the school district has done business with the vendor for close to 20 years, staff could only locate one recent “contract,” a one page document that contains a vague scope of work. The scope only covered a portion of the services the vendor provided and failed to reference the services the vendor provides directly such as student assessments.
 - The “contract” covered less than 15% of the dollar value of the vendor’s services for the 2010-2011 school year, only covering a portion of those behavioral services paid for with ARRA funding.
- The OIG also identified an inherently problematic arrangement by which the vendor evaluates a student and recommends that student for a service provided by programs offered by the same vendor.
- Vendor staff lacks Massachusetts licensure: The OIG could not identify any licensed clinicians performing assessments for the district by the vendor. As a result, the OIG has forwarded the matter to the Division of Professional Licensure for further review.

Most districts agreed to review these issues and implement OIG recommendations, including instituting an asset-management system for desktop computers and other electronic devices such as laptops, cellular telephones, etc.

Review of Leaking Underground Storage Tank Grant

In February 2011, the OIG conducted a partial review of the Department of Environmental Protection's (DEP) \$3,118,000 Leaking Underground Storage Tank (LUST) grant that DEP received from the U.S. Environmental Protection Agency. Based on a competitive application process, DEP awarded \$260,000 in grant funding to projects in Taunton and Springfield and to the Blue Hills Regional Technical High School in Canton. DEP is using the remaining grant funds (approximately \$2.8 million) for LUST projects identified previously by DEP prior to the competitive application process.

For the remediation work slated to be performed under this grant, DEP uses a list of prequalified contractors prepared previously by DEP using state procurement methods. When projects are to begin, including the three competitively awarded municipal projects, DEP obtains bids for this work from the contractors on the prequalified list. DEP awards the work to the lowest qualified bidder. DEP is then responsible for monitoring contractor performance, paying the contractors, and ensuring that grant funds are appropriately used, that those funds are all accounted for, and that the program is compliant with ARRA requirements.

The purpose of the review was to examine DEP's capacity for ensuring that the \$260,000 allocated for projects had been used appropriately for the three municipal projects cited above. The OIG examination included a review of DEP's procurement methods, contract oversight practices, and grant monitoring process. The OIG wrote that DEP has adequate capacity to address the accountability, transparency, and anti-fraud, waste, and abuse mandates of this ARRA-funded program. The OIG did note the potential risk posed by allowing contractors to remain on the list for substantial periods of time without a periodic reexamination of their qualifications; DEP staff informed the OIG that DEP had also identified this risk and had developed a process to periodically verify the status of prequalified contractors.

Review of Merrimack Valley Regional Transit Authority

In June 2010, the Massachusetts Attorney General charged the general manager for the Merrimack Valley Regional Transit Authority (MVRTA) prime vendor/operator with stealing fares from the authority's fare boxes. This incident prompted the OIG to conduct a review of MVRTA's receipt of over \$7.9 million in ARRA funds for construction of the new Amesbury Transportation Center and the new MVRTA office and maintenance facility in Haverhill. After conducting the review of MVRTA's existing internal

controls, including procurement practices, the OIG presented these findings and recommendations in a February 2011 letter. The OIG recommended the following:

- MVRTA should revise its purchasing manual to include the statutory requirements of M.G.L. c. 149 and the applicable federal laws in the purchasing manual.
- MVRTA should consider rebidding its management services contract.
- MVRTA should inform the OIG if it has reason to believe that the avoidance of other vendors was indicative of collusion, bid-rigging, or other vendor misconduct.
- MVRTA should consider completing a risk assessment to identify vulnerabilities, understand how the theft occurred, and prevent future theft.
- MVRTA should expand the use of its fraud awareness and prevention policy, including requiring employees of its contractors to sign an acknowledgment, requiring “key employees” of the contractor to receive training on state ethics laws, and train all employees in fraud awareness.
- The management services contract should be amended to require the contractor to adopt internal controls (including ethics/conduct policies, anti-fraud policies, cash-handling procedures, and recordkeeping procedures) and have those controls approved by MVRTA annually.

Review of the Energy Efficiency and Conservation Block Grant Program

Issued by the U.S. Department of Energy (DOE) under ARRA, the Energy Efficiency and Conservation Block Grant (EECBG) Program is intended to help deploy energy-efficiency and conservation technologies nationwide. Massachusetts received over \$42 million in EECBG funds, the bulk of which the DOE granted directly to municipalities or to the Massachusetts Department of Energy Resources (DOER), which in turn subgranted these funds to municipalities. Recipients can use EECBG funds for energy-efficiency and conservation programs or projects communitywide, as well as for renewable-energy installations on government buildings. Examples of such projects include development of an energy-efficiency and conservation strategy, building energy audits and retrofits, including weatherization, and installation of renewable-energy technologies on government buildings. The OIG reviewed a sample of municipalities and identified the following: for the development of solar-panel systems, recipients relied excessively on vendors to provide technical assistance and written specifications; several recipients of EECBG funds used the

exemption in M.G.L. c. 25A, §14, to evade the public building construction law, including one municipality that entered into 12 separate contracts with the same contractor for different projects totaling over \$300,000; some recipients failed to include EECBG-specific and ARRA-specific requirements in their contracts; some EECBG recipients procured new boilers or converted heating systems using on-call service contracts, which violates M.G.L. c. 149.

Following these findings, the OIG issued the following recommendations:

- DOER should advise recipients to work with an independent energy consultant prior to entering into a contract to avoid costly errors both in system design and power-purchasing pricing and to ensure that contract terms offer municipalities the maximum protection.
- DOER should advise municipalities against using the exemption in M.G.L. c. 25A, §14, to evade the public building construction law.
- DOER should increase oversight to ensure that the exemption is not used for the purpose of deterring fair and open competition and that appropriate safeguards are in place to discourage and detect fraud, waste, and abuse.
- DOER should advise recipients to include all EECBG-specific and ARRA-specific requirements in solar-power-purchase agreements.
- DOER should advise municipalities undertaking boiler replacement or conversion that on-call service contracts should not be used to procure these projects. Instead, DOER should advise these municipalities that they must use M.G.L. c. 149.

The OIG issued nine letters providing guidance and recommendations to nine municipalities between February and July 2011 and issued a letter to DOER summarizing the OIG's findings and recommendations for DOER to increase its capacity for the administration and oversight of EECBG funds in June 2011.

Review of Department of Homeland Security Port Security Grant

In April 2011, the OIG reviewed the U.S. Department of Homeland Security's Port Security Grant awarded to the Massachusetts Executive Office of Energy and Environmental Affairs (EOEEA) for the purchase of a police boat for the Massachusetts Environmental Police (\$481,845) and to partially fund the upgrade of the dockage capabilities at the New Bedford State Pier (\$203,030). The OIG reviewed EOEEA's procurement methods, contract-oversight practices, and grant-monitoring process and confirmed that the dock renovations had been made and that the boat is in service.

Review of Richard B. Russell Equipment Assistance Grant

Under ARRA, the Massachusetts Department of Elementary and Secondary Education (DESE) awarded the U.S. Department of Agriculture's (USDA) \$1,404,025 in Richard B. Russell National School Lunch Program Equipment Assistance Grants to school districts and schools for the purchase of food-service equipment. The OIG reviewed the procurement processes and conducted site reviews for a sample of 11 public school districts (35 school buildings) and one private, not-for-profit school. The OIG found the following: two violations of M.G.L. c. 30B with the appearance of bid-splitting; failure to use a competitive process for electrical work in violation of M.G.L. c. 149; redistribution of grant funds without USDA or DESE approval; missed expenditure deadlines; poor recordkeeping; and a wide range of prices paid by recipients across the Commonwealth for the same equipment. The OIG also issued a letter in May 2011 to DESE recommending, among other things, that DESE work with the Operational Services Division (OSD) to identify when group purchasing opportunities may provide the best value for applicants and act to expedite the use of grant funds. For example, if 20 school districts apply to DESE for grant funds to purchase refrigerators, DESE could work with OSD to ensure that refrigerators are available on a state contract. DESE could also choose to allocate grant funds based on the state contract price for refrigerators rather than the differing estimates offered by individual districts.

The OIG's primary finding was that recipients need to improve their procurement practices and recordkeeping. The OIG also found that there might be opportunities to make grant-based procurement more effective and economical.

Additional recommendations, as enumerated to DESE, include:

- DESE should remind its recipients that they must follow M.G.L. c. 30B by including M.G.L. c. 30B compliance information in grant information and a review of procurement methodology in DESE's grant-oversight protocol.
- DESE should inform applicants of the requirements of M.G.L. c. 149 and its applicability if the recipient plans to perform installation work.
- If USDA grant guidelines allow, DESE should consider creating parameters for fund redistribution by grantees that would not require DESE preapproval—for example, 5% or 10% of total grant funding.
- DESE should work with OSD to identify when group purchasing opportunities may exist that provide the best value for applicants and that may act to expedite the use of grant funds/purchase of equipment.

- DESE should stress to grant recipients the necessity for maintaining complete records of their activity under the grant pursuant to state and federal public-records laws and regulations.

Review of Lead Hazard Control Program

The OIG conducted a review of the U.S. Department of Housing and Urban Development's (HUD) Lead Hazard Control (LHC) program. The LHC grant program intends to assist individuals in identifying and remediating lead-based-paint hazards in the home. The program helps homeowners and tenants address federal and state de-leading requirements by paying for lead-paint testing, abatement, and temporary relocation expenses. Massachusetts received \$8,624,565 in total LHC grants awarded to 13 grantees and subgrantees. The OIG found the following: applicant intake processes were at high risk for fraud; there is confusion regarding whether to use M.G.L. c. 149 or M.G.L. c. 30B; a failure to use sound business practices; grantees maintain lists of prequalified lead inspectors and de-leading contractors for long periods without re-procurement and/or requalification; some grantees allow tenant or unit owners to choose a contractor from a prequalified list other than the low bidder to perform de-leading work; grantees select units for de-leading on a first-come, first-served basis at the cost of assisting higher-priority lead abatements; grantees consistently fail to file affordability agreements with the Registry of Deeds; and some grantees' rely on ill-defined agreements or oral contracts rather than formal written contracts to define business relationships with subgrantees, contractors, and other parties. The OIG issued a risk-assessment advisory to grantees and subgrantees of the program as well as individualized letters to five subgrantees. In an April 2011 letter, the OIG issued the following recommendations:

- Grantees must consistently require proof of eligibility from all applicants and verify applicant information by, among other methods, speaking with current or former employers, obtaining applicant permission to obtain credit reports and/or federal tax returns (for possible audit sampling), and making unannounced visits to or observations of the home/tenant-occupied building or unit in question.
- Grantees must follow applicable state and local procurement laws and regulations.
- Grantees must ensure that they follow applicable procurement laws appropriate for the project and services they need to procure.
- To avoid a stagnant prequalified contractor list, grantees could use an "open-door" prequalification application process in addition to periodically verifying the credentials of those already prequalified.
- Grantees should have controls in place to limit the risk of collusion between tenants/owners and de-leading contractors.

- All grantees should first identify high-priority cases through outreach efforts funded under the grant prior to spending significant grant funds.
- Grantees must record landlord affordability agreements.
- Written contracts should clearly define all grantee business relationships.
- Grantees should have written Davis-Bacon Act prevailing-wage-reporting, monitoring, and compliance policies and procedures.
- Grantees should conduct a risk assessment in an effort to identify and rate the significance of any potential risks not identified previously.

Review of WIC Grant

In the spring of 2011, the OIG conducted a partial review of the Department of Public Health's (DPH) receipt of a \$900,000 ARRA-funded grant from the U.S. Department of Agriculture (USDA). DPH used the grant to modify Eos, its new web-based information system for the Women, Infant, and Children (WIC) Nutrition Program to meet accessibility requirements for use by persons with vision and/or mobility disabilities as mandated by the Massachusetts Information Technology Division (ITD). The grant was requested to update the WIC system to meet state accessibility requirements. Although budgeted for \$900,000, the cost of the system upgrades was approximately \$600,000. DPH requested and the USDA approved a grant amendment to use the remaining \$300,000 to test the system's accessibility compliance and obtain final ITD approval. DPH completed this testing, which cost approximately \$15,000 - again, far below budget estimates. DPH again requested, and the USDA approved, another grant amendment to use the balance of the grant funds, approximately \$285,000, to create a data and reporting warehouse for the Eos system. The system would allow DPH to run queries and reports while the system remains in use. Work had not yet begun on this item at the time of the OIG review.

The OIG verified that DPH received approval from the USDA to use ARRA funds for the testing compliance program and data and reporting warehouse for the Eos system. The OIG's main finding concerned the use of contract change orders for nearly \$1 million worth of additional work. The OIG letter stated:

ITD's retroactive application of its Enterprise Standards to the *Eos* system required the expenditure of approximately \$600,000 in ARRA funds. The OIG does not question ITD's policy decision or DPH's choice of Ciber, Inc. to perform the work. The OIG does point out that contract add-ons and change orders issued well into a contract do not provide the awarding agency with ample assurance that it has received a

reasonable price or best value from its contractor. This is especially true when, as in this case, the awarding authority has no choice but to use the incumbent to meet the mandatory change that could have put the entire system implementation in jeopardy.

Review of HPRP Grants

In 2011, the OIG issued a best-practice advisory for the Homeless Prevention and Rapid Re-Housing Program (HPRP) grants, letters to seven grantees addressing specific issues pertaining to their use of grant funds, and one letter addressing a subgrantee's eligibility determination process for HPRP recipients.

Best Practices Advisory

In August 2011, the OIG issued an advisory to assist Massachusetts grantees and subgrantees of the U.S. Department of Housing and Urban Development's (HUD) HPRP to identify potential vulnerabilities for fraud, waste, and abuse and other risks that could undermine the accountability, transparency, and anti-fraud mandates contained in ARRA.

HPRP provides temporary financial assistance, housing relocation, and housing stabilization services for individuals and families who are homeless or at risk for homelessness. Massachusetts grantees received a total of \$44,558,792 in HPRP funds. HUD designated the Massachusetts Department of Housing and Community Development (DHCD) the largest grantee. DHCD received a grant of \$18,443,744 that it subgranted to communities throughout the Commonwealth. HUD distributed the remaining \$26,115,048 directly to communities. HUD and DHCD distributed HPRP funds to 19 grantees that in turn subgranted funds to approximately 62 not-for-profit entities.

The OIG reviewed a sample of municipalities that received grants directly from HUD. This sample accounted for 56% of the grant funds that HUD provided directly to municipalities and 74.5% of the total HPRP funds received by Massachusetts.

Statewide, the OIG questioned the spending of approximately \$1,782,927, or 4%, of HPRP funding. This questionable spending could otherwise have benefited another estimated 519 households at risk for homelessness. The OIG identified the following specific issues:

- A lack of uniform guidelines allowed subgrantees to charge a wide range of indirect cost rates under the grant, resulting in the program spending more than \$203,983 for "expenses" rather than on direct service provision.

- Based on best practices identified by HUD, grantees should consider establishing guidelines that require subgrantees to negotiate with property owners for reductions in rental arrearages owed by program clients. Grantees did not require subgrantees to negotiate a reduction in rental arrearages owed by tenants, resulting in the program possibly paying \$1,171,431 more than necessary in rental-arrearage payments to property owners.
- Grantees do not have a uniform standard to determine a tenant's eligibility under the "but for" and "imminent risk" HPRP provision.
- Most grantees did not monitor subgrantees in a timely manner. This allowed subgrantees to disburse approximately \$145,207 in HPRP funds to ineligible recipients. In some cases, grantees monitored subgrantees but failed to address subgrantee non-compliance.
- Grantees did not have written policies governing relocation and storage costs as required by HUD guidelines.
- Requests for Proposal (RFP) issued by municipal grantees did not always include a Certificate of Non-Collusion form.
- Grantees did not establish performance-measurement guidelines as recommended by HUD.
- Contrary to HUD guidelines, grantee RFPs for case-management services did not include minimum job-qualification requirements.
- Grantees did not comply with HUD guidelines for using an RFP process.
- Grantees and subgrantees did not establish a written policy to handle security-deposit payments as recommended by HUD.
- The OIG identified more than \$96,000 in overbilling by subgrantees.

Grantee Letters

The OIG issued letters to individual HPRP grantees as well. The OIG focused its review on verifying grantee internal controls and compliance with program and procurement policies. The OIG also reviewed grantee management of its subgrantees. The OIG review identified the following issues:

- In violation of HUD guidelines, the OIG identified two subgrantees that overbilled grantees for duplicate costs totaling more than \$96,000.
- Municipalities did not always share their administrative expense allowances (\$100,572) with subgrantees as required under HUD rules.

- In violation of HUD rules, one grantee allocated \$151,300 in training costs paid to a vendor as a program expense rather than an indirect cost.
- Two grantees allowed subgrantees to disburse over \$400,000 in HPRP financial assistance to their own tenants without a required written waiver from HUD.
- In violation of HUD guidelines, two grantees permitted subgrantees to submit administrative costs on a percentage-allocation basis rather than actual costs.
- In violation of HUD rules, one grantee improperly categorized \$25,835 in case-management services as an administrative expense.

Subgrantee Client Eligibility Determination

The OIG conducted a limited follow-up review of a selection of one subgrantee's program files. The findings included:

- Applicants claimed monthly rent owed in excess of total monthly gross household income, raising questions of affordability and sustainability.
- Several files noted how a client had managed to pay for rent and living expenses before becoming "eligible" for the grant. Case files did not adequately document the current need for rental assistance.
- A small number of recipients had household income that exceeded HPRP eligibility guidelines and therefore should have been deemed ineligible for assistance.
- Staff approved multiple rental-arrearage payments for the same client.
- Staff approved what appeared to have been rental-arrearage payments for local college students.
- Staff accepted oral assurance rather than documentation from an applicant (a state employee) that the applicant's mother, a household member, did not have any income.
- Staff approved rental payments when there appeared to be a family relationship between the applicant and a landlord.
- Staff appeared to have routinely failed to verify income information for all household members over the age of 18.
- Staff approved rental payments to applicants who appeared to be habitually behind in rental payments (sometimes spanning a number of years) and therefore were not in imminent risk of eviction pursuant to grant rules.

- Case files for applicants who claimed a disability lacked any medical records or written third-party evidence of the claimed disability.
- Applicant files lacked documentation of zero-income verification for household members who claimed no income.
- Staff ignored red flags of additional household members who were not indicated or accounted for on a head-of-household application.
- The OIG found red flags relating to the information provided by 23% (nine of 40) of program applicants. These red flags included the following:
 - In three cases, an applicant had multiple Social Security numbers.
 - In one case, the applicant was also identified as the property owner. It remains unclear whether, and to whom, the applicant owed rent.
 - It appears that two families received benefits at the same address.
 - The address provided by an applicant did not match any known addresses for the applicant.

Review of SBA Microloan Program

The OIG conducted a risk assessment of the \$4 million ARRA-funded U.S. Small Business Administration (SBA) Microloan Program to provide short-term loans to struggling Massachusetts small businesses. The SBA Microloan Program provides short-term loans of up to \$50,000 to small businesses. According to the SBA, the average microloan is about \$13,000 and may be used for working capital or the purchase of inventory/supplies, furniture/fixtures, or machinery/equipment.

The OIG reviewed lender compliance with applicable SBA program regulations and guidance, including compliance with both SBA and lender loan-documentation requirements. The OIG review did not include an evaluation of lending policies, loan-underwriting criteria, or how lenders determine borrower creditworthiness. However, the OIG did review whether lenders used such policies and criteria. In reviewing the disbursement of this money, the OIG found that: there is a significant risk that sub-lenders will not be able to disburse all the funds by the grant deadline; sub-lenders are not held to any set of underwriting and documentation standards; the SBA does not review loans granted by sub-lenders; the SBA does not establish minimum qualifications to be a lending officer; and one microloan appears to have been used to pay down a debt in violation of grant rules. Overall, the OIG found a high risk for fraud, waste, abuse, and conflicts of interest because lenders and borrowers may have preexisting relationships.

In August 2011, the OIG sent a letter to the SBA to alert it of these shortfalls and to make the following recommendations:

- The SBA should develop uniform underwriting and documentation standards for its Microloan Program. SBA lender reviews should focus on any overrides or exceptions to either SBA or lender standards.
- To mitigate risk, the SBA should review the underwriting and borrower-credit-worthiness process/standards used by lenders and test these standards against issued loans.
- The SBA should develop minimum job-qualification standards for program loan officers. At a minimum, the SBA should provide guidance on this subject to lenders.
- The SBA should consider reviewing the underwriting practices of one grantee, RCAP Solutions, and providing additional training and/or technical assistance to mitigate any lack of understanding of SBA rules by RCAP staff. The SBA should also review the loans in question for compliance with program rules.
- The SBA should require intermediary lenders to adopt codes of conduct and ethics policies and require lenders to regularly train staff in these areas.

Overall, the OIG recommended that the SBA increase its oversight of these unregulated lenders to address vulnerability to fraud, waste, and abuse and to prevent missteps that may occur because lenders may have too much discretionary authority under the current program.

Review of OpenCape Corporation's Broadband Grant

The U.S. Department of Commerce's Broadband Technology Opportunities Program (BTOP) granted \$32,072,093 in ARRA funds to the nonprofit OpenCape Corporation for construction of a comprehensive new broadband infrastructure for Cape Cod and the Islands. The proposed project consisted of the design and construction of an approximately 350-mile fiber-optic network and its associated infrastructure that included a "Collocation Center" in Barnstable. This network would be owned by OpenCape but operated and maintained by a private vendor that would provide network services to end users on a fee basis. OpenCape would be paid license fees by the chosen vendor and receive a percentage of the vendor's gross revenue over a 25-year contract term.

The OIG concluded that, although OpenCape is generally following best practices, maintaining transparency, and following local regulations when it is only legally obligated to obey federal ones, there exists vulnerability to fraud, waste, and abuse.

- The OIG is concerned about OpenCape's lack of preparation for handling its potentially multi-million-dollar profits over several decades, and recommends that OpenCape institutionalize anti-fraud and abuse safeguards to protect future revenue and to protect against potential conflict-of-interest issues that could arise because of the involvement of public officials in OpenCape governance and oversight of the broadband project.
- The OIG worries that a small group of OpenCape employees will soon have alarmingly wide discretion over significant financial resources without the level of oversight and controls that normally exist for public funding. For example, OpenCape could award significant compensation packages to its executives and conduct so-called "related party transactions" with those having governance responsibility.
- The OIG also questioned OpenCape's reservation of 40% of broadband fibers for its own use without any clear guidelines for maintaining an appropriate level of accountability and transparency in their use.

The OIG also noted OpenCape's lack of recordkeeping in the vendor-procurement process, the size of the service discounts being provided to public entities, the cost-effectiveness of accepting a building as a donation from Barnstable County, and the possibility of OpenCape's revenue share with the vendor being diminished without adequate input. Overall, the OIG's September 2011 letter to OpenCape served as a reminder that any profit from this publicly-funded project should be used to serve public interests.

ARRA Grant Monitoring

Based on Section 1512 reporting, the OIG has monitored 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 Section 1512 reporting.

ARRA Procurement Bulletins

The OIG publishes a quarterly procurement bulletin for local officials around the state. The OIG previously devoted a page exclusively to ARRA-related issues and has posted ARRA-related material as appropriate. Approximately 2,000 people were directly informed of significant outcomes of reviews of the OIG ARA team and the broad applicability of recommendations to control risks and prevent fraud.

Trainings and Outreach

The OIG provided procurement and anti-fraud training to recipients and

professional groups, issued ARRA-related guidance, and assisted state and local agencies to increase their grant-oversight and fraud-prevention capacity. Audiences included: 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, nonprofits, and other entities that were either ARRA recipients or otherwise impacted by ARRA funds.

STOP Fraud Task Force

Staff from the OIG met regularly with the STOP Fraud Task Force, which coordinated ARRA oversight activity between state and federal oversight agencies.

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 interagency initiatives. The task force is spearheaded by Lieutenant 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 148 of Chapter 68 of the Acts of 2011, 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 2011 the OIG reviewed the method by which transportation was reimbursed and tracked. After meeting with the Administration and the Connector, the Connector accepted the Office's input into the Connector's billing practices and saved \$80 million.

The efforts of the OIG focused on claims and eligibility editing, inappropriate reimbursements, and primary care delivery in the HSN. For MassHealth, the OIG is currently reviewing program integrity including eligibility, utilization, reimbursement, and compliance with federal and state mandates. In private insurance the OIG looked at premium regulation, alternative quality contracts, and global payments.

Finally, as designated in Chapter 58 of the Acts of 2006, 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 in those costs.

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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 2011, 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 other state and 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

Pursuant to Chapter 149A, the Office was charged with reviewing applications to use alternative construction delivery methods, including construction manager (CM) at risk and design build. Also, the Office was charged with reviewing and 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

Since 2005, the CM at risk delivery method has increasingly been an option used for public building construction projects that cost \$5 million or more. Under the delivery method, the owner typically selects the CM at risk firm at the outset 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. At some point during the design stage, the owner and the CM at risk firm negotiate a guaranteed maximum price (GMP) for the project and the CM at risk firm assumes responsibility for the performance of the work, including the work performed by project subcontractors.

In 2011, the Office received 18 applications to use CM at risk, totaling over \$1 billion in project costs. (The total in project costs does not include projects conducted by the exempt agencies.) The projects included 14 schools including one charter school, one office building project, two transportation facility projects and one municipal safety building. Applicants included the Ashburnham-Westminster Regional School District, Boston, Cambridge, Leominster, Springfield and Worcester among others.

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 entities, MassDOT, Massport, and the MWRA, are exempt from the project-by-project approval process but must submit procedures to be reviewed. All others must submit an application to use the method for an individual project to the Office of the Inspector General. In 2011, the Office did not receive any applications to use design build from non-exempt entities. However, MassDOT and Massport use design build regularly for their projects.

Incentive/Disincentive Specification Use

The passage of Chapter 233 of the Acts of 2008, "An Act Financing An Accelerated Structurally-Deficient Bridge Improvement Program," (ABP) allows bridge projects to be constructed using alternative methods, including incentives and disincentives, if approved by the Inspector General. In 2011, MassDOT Highway Division submitted procedures for incentive/disincentive specifications to be used on two bridge projects. The projects were the River Street Bridge in Boston and the Rocks Village Bridge over the Merrimack River between Haverhill and West Newbury. 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.

Construction Management/General Contractor (CM/GC) for Public Works Projects

In 2011, under the ABP, MassDOT proposed using CM/GC for the first time in Massachusetts to rehabilitate the historic Longfellow Bridge between Boston and Cambridge. Other states have used the method, which is similar to CM at risk, to complete public works projects. MassDOT thought that components of a CM/GC contract, such as preconstruction services and an integrated team approach, would provide better outcomes on the complex bridge project. MassDOT based its proposal on federal guidelines and other states' procedures. Although the proposal to use CM/GC did not go forward and MassDOT decided to use the design build method for the Longfellow Bridge project, the Office worked with MassDOT to draft legislation to authorize the use of CM/GC under a pilot program. In 2011, the legislation had not passed, but was carried forward to the 2012 legislative session.

Massachusetts School Building Projects

In 2011, 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 continued to participate in an advisory capacity on the owner's project manager review board.

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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:

Former Dever State School Disposition to Taunton Development Corporation: The Office reviewed the appraisal and disposition documents for the remaining 188 acres of the Dever State School property to be conveyed as Phase IV and V. Three other phases of dispositions have occurred. The property was to be conveyed for the purposes of municipal industrial development, development of a regional education, training and skills alliance center, and development of a life sciences center as well as restricting some land for recreation and preservation of a cemetery. Other land that was part of the deal was to be used for housing. Although the legislation named the Taunton Development Corporation as the party to receive the land to be developed, ultimately a new non-profit entity Taunton Development/MassDevelopment Corporation was created to perform the obligations of the legislation and the disposition documents. The Office's review noted that appropriate safeguards were included in the disposition documents.

Assembly Square Area of Somerville: The Office reviewed the appraisal of multiple fee and easement parcels to be transferred to facilitate the development of a planned mixed-use development in the Assembly Square Area. The Office approved the methodology and estimate of value presented in the appraisal.

Revere Land: The Office reviewed an appraisal that encompassed two parcels to be exchanged. One parcel of state land was to be conveyed to the City of Revere for development of a public safety facility and the other parcel was to be conveyed by the City to the state for expansion of the Rumney Marsh Reservation. The Office approved the methodology and estimate of value presented in the appraisal.

Former Worcester County Courthouse: DCAM attempted to sell the vacant historic Worcester County Courthouse by auction, but not enough qualified entities responded. Therefore, DCAM had the building appraised so that it could be sold through a request for proposals process. The Office reviewed the appraisal and approved the methodology and estimate of value presented.

Local Government Procurement Assistance and Enforcement

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

Training and Professional Development

The Inspector General's office administers the Massachusetts Certified Public Purchasing Official Program (MCPPO), which the office created fifteen 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 architects and owner's project managers to meet requirements for certification and recertification as public school designers and owner's project managers for the Massachusetts School Building Authority.

Over 900 participants consisting of town, city and state employees, as well as members of the private sector, attended MCPPO courses and presentations in 2011, 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.

Last year, the Office of the Inspector General, 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 200 people have received free training.

The Inspector General 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. In 2011, the Inspector General

held a total of 37 classes in the MCPPO Program, including 9 video-conferences, averaging approximately 24 students per class. The MCPPO Program offered three 3-day seminars throughout the year: “Public Contracting Overview” a prerequisite for the other two courses that include segments on Massachusetts procurement and construction bidding laws, purchasing principles, prevailing wage law, public records law, and ethics; “Supplies & Services Contracting” which instructs participants on how to interpret M.G.L. c. 30B, how to conduct invitations for bids (IFBs) and requests for proposals (RFPs), how to write effective specifications, solicit price quotations and how to recognize and solve 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, implementation of the prequalification process and alternative delivery methods, and identification of special issues in construction bidding. During 2011 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” seminar, 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 Inspector General’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 Office of the Inspector General and was presented in March, May, September and November of 2011.

The “Recertification for School Project Designers & Owner’s Project Managers” seminar 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. This course was developed by the Office of the Inspector General and was presented in February, April, October and November of 2011.

Speaking Engagements

The Inspector General’s Office also provided speakers on various topics in public procurement principles for: the Commonwealth of Massachusetts Office of the Treasurer, Framingham State University, the Massachusetts Association of Public Purchasing Officials (MAPPO), the Massachusetts Association of School Business Officials (MASBO), the Massachusetts Treasurers and Collectors Association (MTCA), the Massachusetts City Solicitor & Town Counsel Association (CSTCA), the Massachusetts Facilities Administrator Association (MFAA), Cape Cod Association of Purchasing Professionals (CCAPP), the GreenSTAR Expo 2011 and at the MASBO Trade Show.

Inquiries, Complaints and Protests

In 2011, the Office responded to approximately 3,400 inquiries about M.G.L.

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

Publications

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

Manuals

The most useful and best circulated of the Office’s informational resources are procurement manuals periodically published for use both by public officials and private citizens. The Office has published two manuals, one for supplies, services and real property and one for design and construction, since 1990 and 1985, respectively. As laws change and new issues arise, the manuals are updated to make the information more accessible and relevant to their readers. The Office issued new editions of both manuals in 2011.

In May, the Office issued the sixth edition of its supplies, services and real property manual entitled *The Chapter 30B Manual: Legal Requirements, Recommended Practices, and Sources of Advice for Procuring Supplies, Services, and Real Property*. *The 30B Manual* provides a comprehensive overview of M.G.L. c.30B and a step-by-step guide to using M.G.L. c.30B to obtain the best value when procuring supplies and services, disposing of surplus supplies, acquiring or disposing of real property, and procuring small construction-related contracts. Also, the updated manual contains new Chapter 30B interpretations, advice on a variety of procurement issues, and information on statutory changes that occurred since the previous edition was issued in 2006. The manual is made available as a free download from the Office’s website (<http://www.mass.gov/ig/publications/manuals/30bmanl.pdf>) or is available for sale at the State Bookstore.

In October, the Office issued the seventh edition of its manual, *Designing and Constructing Public Facilities*. The manual provides crucial guidance to public officials undertaking public construction projects. The Office consulted with the Attorney General Fair Labor Division, which enforces the state design and construction laws, and the Division of Capital Asset Management as well as other state agencies that use the laws to outline best practices on a step-by-step basis. The 2011 edition incorporates statutory changes and judicial interpretations since the previous edition was issued in September 2005 as well as recent interpretations by the Office of the Attorney General. The manual is made available as a free download from the Office’s website (<http://www.mass.gov/ig/publications/manuals/dcmanual.pdf>) or is available for sale at the State Bookstore.

Both manuals are written in clear, readily accessible prose and are fully indexed. They are virtually the only readily available explanation of the state's procurements laws.

Procurement Bulletin

In 2011 the Office issued three issues of its Procurement Bulletin, which has been published several times a year since 1994 and is delivered to over 2,000 subscribers. The Bulletin is a newsletter containing articles, notices of investigations, new legislation and frequently asked questions about M.G.L. c.30B, which covers procurements of supplies, services and real property. The Bulletin also includes curriculum announcements and certifications for the MCPPO program. Representative topics covered in 2011 editions of the Bulletin include emergency procurements, eProcurement, disposition procedures for supplies, and brokered energy contracts. Also, the Bulletin included notices of compliance reviews under the American Recovery and Reinvestment Act. Current and past issues of the Bulletin and an index of past issues can be downloaded at <http://www.mass.gov/ig/publications/procurement-bulletins>.

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 the towns of Sandwich and Sterling in 2010.

Legislative Reviews

The Office of the Inspector General reviewed and commented on numerous pieces of legislation during the first half of the 2011-2012 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 procurement, health care 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, the Joint Committee on State Administration and Regulatory Oversight and 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 2011:

- CHAPTER 4, "AN ACT AUTHORIZING HOLYOKE COMMUNITY COLLEGE TO BORROW FUNDS FOR THE ACQUISITION AND RENOVATION OF CERTAIN REAL PROPERTY IN THE CITY OF HOLYOKE";
- CHAPTER 8, "AN ACT AUTHORIZING THE TOWN OF SANDWICH TO ENTER INTO A LEASE FOR THE CONSTRUCTION OF AN ACTIVE RECREATION FACILITY";
- CHAPTER 17, "AN ACT AUTHORIZING THE CITY OF GARDNER TO CONVEY CERTAIN

- PARK LAND”;
- CHAPTER 38, “AN ACT AUTHORIZING AN ALTERNATIVE MODE OF DESIGN AND CONSTRUCTION FOR THE REHABILITATION OF A SEWER INTERCEPTOR IN THE CITY OF EVERETT”;
- CHAPTER 46, “AN ACT RELATIVE TO THE PROCUREMENT AND AWARD OF CONTRACTS FOR THE CONSTRUCTION, RECONSTRUCTION, INSTALLATION, DEMOLITION, MAINTENANCE OR REPAIR OF BUILDINGS BY PUBLIC AGENCIES IN THE CITY OF BOSTON”;
- CHAPTER 66, “AN ACT AUTHORIZING THE TOWN OF EDGARTOWN TO USE A CERTAIN PARCEL OF CONSERVATION LAND FOR GRASS FIELD AIRPORT PURPOSES”;
- CHAPTER 73, “AN ACT AUTHORIZING THE TOWN OF ANDOVER TO EXCHANGE CERTAIN PARCELS OF LAND WITH THE ANDOVER VILLAGE IMPROVEMENT SOCIETY”;
- CHAPTER 74, “AN ACT RELATIVE TO A PARCEL OF LAND IN TAUNTON”;
- CHAPTER 75, “AN ACT PROVIDING FOR THE ABANDONMENT OF A CERTAIN WAKEFIELD SEWER EASEMENT”;
- CHAPTER 151, “AN ACT AUTHORIZING THE TOWN OF BRAINTREE TO ENTER INTO CERTAIN CONTRACTS FOR THE CONSTRUCTION AND MAINTENANCE OF A RECREATIONAL FACILITY IN SAID TOWN”;
- CHAPTER 164, “AN ACT RELATIVE TO AUTHORIZING THE TOWN OF NEEDHAM TO DISPOSE OF BY SALE OF 375 SQUARE FEET OF CONSERVATION LAND AND TO GRANT A PERMANENT GROUND BED EASEMENT TO SUPPORT NATURAL GAS TRANSMISSION UNDER ARTICLE OF AMENDMENT XLIX”;
- CHAPTER 179, “AN ACT AUTHORIZING THE TOWN OF SHERBORN TO USE CERTAIN TOWN FOREST LAND FOR THE PURPOSE OF CONSTRUCTING, OPERATING AND MAINTAINING A WIRELESS TELECOMMUNICATIONS FACILITY”;
- CHAPTER 184, “AN ACT AUTHORIZING THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION TO ACQUIRE CERTAIN PARCELS OF LAND IN THE TOWN OF AMHERST”;
- CHAPTER 185, “AN ACT RELATIVE TO THE LAND ACQUISITION FOR HAMILTON CROSSING”;
- CHAPTER 186, “AN ACT AUTHORIZING THE RELEASE OF CERTAIN LAND IN THE TOWN OF DARTMOUTH FROM THE OPERATION OF AN AGRICULTURAL PRESERVATION RESTRICTION”;
- CHAPTER 196, “AN ACT AMENDING CONTRACT PROCEDURES IN THE CITY OF BOSTON”;
- H5, “AN ACT RELATIVE TO VENDOR CONTRACTS”;
- H569, “AN ACT APPROVING THE CONVEYANCE BY THE NANTUCKET ISLANDS LAND BANK OF CERTAIN LAND SITUATED IN THE TOWN OF NANTUCKET”;
- H822, “AN ACT RELATIVE TO PRICE ADJUSTMENT”;
- H823, “AN ACT RELATIVE TO IMPROVING PUBLIC SAFETY AND REDUCING CONSTRUCTION COSTS”;
- H847, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF DANVERS LOCATED ALONG MAPLE STREET”;
- H832, “AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND IN THE TOWN OF WILMINGTON”;
- H846, “AN ACT DISCONTINUING THAT PORTION OF GRAVELLY BROOK ROAD LYING IN THE TOWN OF TOPSFIELD AS A COUNTY HIGHWAY, AND AUTHORIZING AND DIRECTING THE DIVISION OF CAPITAL ASSET MANAGEMENT TO CONVEY AND GRANT ALL RIGHT, TITLE, AND INTEREST IN SAID DISCONTINUED PORTION TO ABUTTERS”;
- H2320, “AN ACT RELATIVE TO AUTHORIZING THE TOWN OF NEEDHAM TO DISPOSE OF BY SALE OF 375 SQUARE FEET OF CONSERVATION LAND AND TO GRANT A

PERMANENT GROUND BED EASEMENT TO SUPPORT NATURAL GAS TRANSMISSION UNDER ARTICLE OF AMENDMENT XLIX”;

- H2573, “REQUIRES AN AWARDED AUTHORITY SHALL ESTABLISH AN INTEREST BEARING ESCROW ACCOUNT AT A FINANCIAL INSTITUTION LICENSED TO DO BUSINESS IN THE COMMONWEALTH AT THE TIME OF THE FIRST PAYMENT TO A CONTRACTOR”;
- H2589, “DIRECTS THE COMMISSIONER OF THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY THE ARTICULATED PARCEL OF LAND IN THE TOWN OF SHARON TO EDWARD AND NANCY WELCH, IN EXCHANGE FOR A LARGER PARCEL LOCATED IN THE SAME TOWN”;
- H2593, “AN ACT RELATIVE TO THRESHOLDS FOR MANDATED USE OF THE DESIGNER SELECTION LAW”;
- H3032, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT AN EASEMENT IN CERTAIN LAND IN THE TOWN OF HOPKINTON”;
- H3044, “AN ACT RELATIVE TO ECONOMIC DEVELOPMENT IN THE NORTH POINT AREA OF THE CITY OF CAMBRIDGE”;
- H3332, “AN ACT AUTHORIZING THE TOWN OF NATICK TO LEASE THE FORMER EAST SCHOOL FOR UP TO NINETY-NINE YEARS”;
- H3431, “AN ACT AUTHORIZING THE TOWN OF NORTON TO GRANT EASEMENTS AND RESTRICTIONS OVER CERTAIN TOWN-OWNED LAND”;
- H3461, “AN ACT RELATIVE TO THE NANTUCKET ISLANDS LAND BANK BEING AUTHORIZED TO SELL, CONVEY OR OTHERWISE DISPOSE OF CERTAIN LAND IN THE TOWN OF NANTUCKET”;
- H3523, “AN ACT RELATIVE TO THE PROCUREMENT AND AWARD OF CONTRACTS FOR THE CONSTRUCTION, RECONSTRUCTION, INSTALLATION, DEMOLITION, MAINTENANCE OR REPAIR OF BUILDINGS BY PUBLIC AGENCIES IN THE CITY OF BOSTON”;
- H3650, “AN ACT RELATIVE TO THE PROCUREMENT AND AWARD OF CONTRACTS FOR THE CONSTRUCTION, RECONSTRUCTION, INSTALLATION, DEMOLITION, MAINTENANCE OR REPAIR OF BUILDINGS BY PUBLIC AGENCIES IN THE CITY OF BOSTON”;
- H3671, “AN ACT RELATIVE TO PROVIDING FOR A PARTIAL RELEASE OF CERTAIN LAND IN THE TOWN OF DARTMOUTH FROM THE OPERATION OF AN AGRICULTURAL PRESERVATION RESTRICTION”;
- H3719, “AN ACT RELATIVE TO AUTHORIZING AN EXCHANGE OF LAND BETWEEN BRIGITTE AND TIMOTHY O'MALLEY OF TOPSFIELD AND THE TOWN OF TOPSFIELD”;
- H3783, “AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN PARCELS OF LAND IN THE CITY OF REVERE”;
- H3814, “AN ACT TO IMPROVE THE ADMINISTRATION OF STATE GOVERNMENT AND FINANCE”;
- S1579, “AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN PROPERTY IN THE CITY OF LAWRENCE”;
- S1583, “AN ACT AUTHORIZING THE LEASING OF THE LEO J. MARTIN MEMORIAL GOLF COURSE”;
- S1588, “AN ACT TO AUTHORIZE THE LEASING OF THE PONKAPOAG GOLF COURSE”;
- S1591, “AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A PARCEL OF LAND IN THE CITY OF NEW BEDFORD”;
- S1592, “AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A PARCEL OF LAND IN THE CITY OF NEW BEDFORD”;
- S1888, “AN ACT TO AUTHORIZE THE TOWN OF FOXBOROUGH TO SELL BY AUCTION TOWN PROPERTY LOCATED AT 40 SCHOOL STREET”;
- S1899, “AN ACT RELATIVE TO AN EXCLUSIVE AND PERPETUAL EASEMENT WITHIN MONROE STATE FOREST”;

- S1927, "AN ACT RELATIVE TO MODIFYING THE APPOINTMENT OF THE FEOFFEEES OF IPSWICH GRAMMAR SCHOOL";
- S2053, "AN ACT RELATIVE TO CERTAIN PROJECTS REFERRED TO THE MASSACHUSETTS HISTORICAL COMMISSION FOR CONSULTATION";
- S2062, "AN ACT RELATIVE TO AFFORDABLE HOUSING IN THE CITY OF TAUNTON";
- S2078, "AN ACT RELATIVE TO INFORMATION TECHNOLOGY PRODUCER RESPONSIBILITY".

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Legislative Recommendations: 2011-2012 Session

Bills Filed for the 2011-2012 Session

In November 2010 the Inspector General filed the following bills for the 2011-2012 legislative session:

House 9, An Act Relative to Fraud

The bill would create a penalty for defrauding the state or any of its political subdivisions. This general fraud statute parallels the Federal mail fraud statute (18 U.S.C. § 1341). Currently, no such statute exists. The bill was referred to the Judiciary Committee.

House 10, An Act Relative to Special State Police

The bill allows for the appointment of employees of the Inspector General's Office as special state police officers. This would allow the Inspector General's Office to carry out its statutory mission in a more efficient manner. The bill was referred to the Public Safety and Homeland Security Committee.

House 11, 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. The bill was referred to the Judiciary Committee.

House 12, 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. The bill was referred to the State Administration and Regulatory Oversight Committee.

House 13, An Act Relative to Chapter 30B

The bill would make some technical corrections to Chapter 30B, the Uniform Procurement Law. The changes affect the recently enacted reverse auction law. There is also a change to an exemption to reflect the name change of an agency due to the recent transportation reorganization. The bill was referred to the State Administration and Regulatory Oversight Committee.

House 14, An Act Relative to Energy Management Services

The bill mandates that the Department of Energy Resources develop requirements that must be included in any energy management services contract entered into under Chapter 25A. The bill was referred to the Telecommunications, Utilities and Energy Committee.

Listing of 2011 Reports and Publications

The Office of the Inspector General published dozens of reports and letters in 2011. The following documents are available on the Inspector General's Internet site www.mass.gov/ig:

- The Department of Justice, Office of Carmen M. Ortiz, United States Attorney Issued a Press Release Regarding the Sentencing of Former State Senator Bernard "Joseph" Tully for Wire Fraud Conviction, December 2011.
- Town of Berkley Reaches Settlement with Rhode Island Chapter 40B Developer Following Inspector General Investigation, December 2011.
- Inspector General's Office Investigation Leads to Verizon New England Agreeing to Pay the Commonwealth of Massachusetts an Additional \$800,000 in Interest and Penalties to Settle a Case of Overcharging Municipalities for Centrex Telephone Service, December 2011.
- Letter to Richard J. Cushing, Chairman, West Newbury Board of Selectmen Regarding the Town's Employee Compensation Practices, November 2011.
- Letter to Michael Vaughn, Chief Procurement Officer, City of Lowell, Regarding the City's Procurement of a Wireless Radio Fire Alarm System and Dispatch Center, October 2011.
- American Recovery and Reinvestment Act Oversight: October 1, 2009 - September 30, 2011, November 2011.
- Letter to Mr. Peter J. Adams, Chairman, Board of Selectmen and Mr. John P. Carney, Chairman, Zoning Board of Appeals Regarding the Hilltop Farms Chapter 40B Development and the Developer's Profits, November 2011.
- American Recovery and Reinvestment Act Oversight: October 1, 2009 - September 30, 2011, November 2011.
- Inspector General's Office Investigation Leads to a Guilty Plea by Joseph Salvo, Former Methuen School Business Manager, for Embezzlement and Larceny, November 2011.
- Letter to Joseph Connarton, Executive Director, PERAC and David Pickering, Board Administrator, Chelsea Retirement Board, Regarding the Compensation and Retirement Benefits of Michael McLaughlin, Executive Director of the Chelsea Housing Authority, November 2011.
- Letter to the Committee on Housing Regarding the Comprehensive Permit Law, Commonly Referred to as Chapter 40B, October, 2011.
- Letter to the Committee on the Judiciary Regarding House Bill 11, An Act Relative to Public Procurement, October, 2011.
- Letter to the Committee on the Judiciary Regarding House Bill 9, An Act Relative to Fraud, October, 2011.
- Letter to Commissioner Mitchell Chester, Massachusetts Department of Elementary and Secondary Education, Regarding Oversight of Fiscal Policies and Procedures of Charter Schools, October 2011.
- Letter to Chairman Walter B. Cruz, Wareham Board of Selectmen, Regarding an Investigation of Allegations About the Operations of the Wareham Free Library, September 2011.
- City of Boston Department of Neighborhood Development Subgrantee Catholic Charitable Bureau of the Archdiocese of Boston Inc. (Catholic Charities) HPRP Grant, September 2011.
- U.S. Department of Commerce's Broadband Technology Opportunities Program Grant to OpenCape Corporation , September 2011.

- Advisory to Grantees & Sub-Grantees of the Recovery Act Funded Homeless Prevention & Rapid Re-Housing Program (HPRP), August 2011.
- Department of Housing & Community Development HPRP Grant, August 2011.
- City of Boston Department of Neighborhood Development HPRP Grant, August 2011.
- City of Newton Department of Community Development and Planning HPRP Grant, August 2011.
- City of Lowell Department of Planning & Development HPRP Grant, August 2011.
- Lynn Housing Authority and Neighborhood Development HPRP Grant, August 2011.
- City of Springfield Housing Department HPRP Grant, August 2011.
- City of Worcester Department of Supportive Housing HPRP Grant, August 2011.
- Malden LHC Grant, August 2011.
- Risk Assessment of the U.S. Small Business Administration's ARRA-funded Microloan Program, August 2011.
- Massachusetts Inspector General Joint Investigation: The Department of Justice, Office of Carmen M. Ortiz, United States Attorney Issued a Press Release Regarding Former Massachusetts State Senator Bernard "Joseph" Tully, August 2011.
- Letter to Governor Deval Patrick Regarding An Analysis of the Health Care Global Payment Contract known as the "Alternative Quality Contract", August 2011.
- Letters to His Excellency Deval L. Patrick, The Honorable Therese M. Murray, Senate President and The Honorable Robert A. DeLeo, Speaker Regarding House No. 00009, An Act Relative to Fraud, August 2011.
- Letter to Mayor Elaine Pluta, City of Holyoke, Regarding Efforts to Correct Deficiencies in the Management and Activities of the Treasurer's Office, August 2011.
- Inspector General's Office Investigation Leads to State Ethics Commission Issuance of an Order to Show Cause Involving the Winthrop Harbormaster, July 2011.
- Haverhill Retirement Board Decision Regarding an Employee's Pension Upheld after a Massachusetts Office of the Inspector General, Massachusetts State Police and Massachusetts Attorney General's Office Joint Investigation, July 2011.
- Review of the Massachusetts Department of Public Health's Receipt of a Women, Infant, & Children Nutrition Program (WIC) Miscellaneous Technology Grant, July 2011.
- Testimony of Inspector General Gregory W. Sullivan at the 2011 Health Care Cost Trends Public Hearing, June 2011.
- Letter to the Co-Executive Directors of the Merrimack Special Education Collaborative (MSEC) Regarding Invalid Agreements Between the MSEC and the Merrimack Education Center Inc., June 2011.
- Letter to the Board Members of the Merrimack Education Center Inc. (MEC) Regarding Misconduct by the Organization's Executive Director, June 2011.
- Letter to Executive Director Nicola Favorito, State Board of Retirement Regarding the State Pension of Richard W. McDonough, June 2011.
- Letter to Westport Board of Selectmen Regarding an Investigation Into Matters Involving the Westport Highway Department, June 2011.

- Letter to the Committee on State Administration and Regulatory Oversight Regarding Senate Bill 1609, An Act Authorizing Governmental Bodies to Enter into Contracts for the Inspection, Maintenance, Repair or Modification of Water Storage Facilities, June 2011.
- Letter to Commissioner Ronald Corbett, Office of the Commissioner of Probation Regarding the Procurement of an Electronic Monitoring System Utilizing Global Positioning System (GPS) Technology, June 2011.
- Lowell LHC Grant, May 2011.
- Pittsfield Department of Community Development LHC Grant, May 2011.
- Self Help, Inc. LHC Grant, May 2011.
- University of Massachusetts Dartmouth's LHC Grant, May 2011.
- Letter to Rehoboth Board of Selectmen and Zoning Board of Appeals Regarding Abuse of the Chapter 40B Affordable Housing Program by a Planning Board Member/Selectman, May 2011.
- Letter to William Good, Commissioner, City of Boston Inspectional Services Department Regarding a City of Boston Property and the Owner's Interaction with Officials of the Inspectional Services Department, May 2011.
- Summary Letter to Department of Elementary & Secondary Education, May 2011.
- Letter to The Honorable Governor Deval Patrick Regarding Recommendations for Health Care Cost Containment, May 2011.
- Letter to General Counsel James H. Salvie, Massachusetts Teachers Retirement System Regarding the Public Pension of John Barranco, April 2011.
- Massachusetts Inspector General Joint Investigation: The Department of Justice, Office of Carmen M. Ortiz, United States Attorney Press Release Regarding Former Employee of Non-Profit Indicted in Kickback Scheme, April 2011.
- U.S. Department of Homeland Security Port Security Grant, April 2011.
- Boston Russell Grant, April 2011.
- The Evergreen Center Russell Grant, April 2011.
- Fall River Russell Grant, April 2011.
- Fitchburg Russell Grant, April 2011.
- Greater Lowell Regional Vocational Technical H.S. Grant, April 2011.
- Greenfield Russell Grant, April 2011.
- Lawrence Russell Grant, March 2011.
- Randolph Russell Grant, March 2011.
- Somerville Russell Grant, March 2011.
- Ware Russell Grant, March 2011.
- Winchendon Russell Grant, March 2011.
- Worcester Russell Grant, March 2011.
- Letters to Nine Municipalities -- Ashby, Ayer, Clinton, Gardner, Orange, Palmer, Shirley, Sturbridge, and Westminster -- Regarding a Consulting Contract and a Proposed 20-30 year Lease of Land to a Photovoltaic Power Generating System Provider, March 2011.
- Massachusetts Inspector General Joint Investigation: Methuen Contractor Pleads Guilty to Bid-Rigging, March 2011.

- Assignment of Moorings to Private Businesses in Newbury, Massachusetts, March 2011.
- Investigation of an Unauthorized Sewer Connection in the City of Lowell, March 2011.
- Ongoing Analysis of the Health Safety Net Trust Fund And Other Health Care Issues, March 2011.
- Merrimack Valley Regional Transit Authority (MVRTA) Grant, February 2011.
- Leaky Underground Storage Tank Grant, February 2011.
- Town of Acton Reaches an Agreement with Crossroads Development LLC, a Chapter 40B Developer, Who Will Perform Renovation Work In Lieu of Continued Litigation, January 2011.
- Letter to Dana Barrette and Erik Van Buskirk, Town of Sandwich, Regarding the Woodside Village Chapter 40B Affordable Housing Development, January 2011.
- Letter to Mayor Elaine Pluta, City of Holyoke, Regarding the City Collector's Office, January 2011.