



OFFICE OF THE INSPECTOR GENERAL
COMMONWEALTH OF MASSACHUSETTS

GLENN A. CUNHA
INSPECTOR GENERAL

2019 Annual Report

APRIL 30, 2020

ONE ASHBURTON PLACE, ROOM 1311
BOSTON, MA 02108 | (617) 727 - 9140 | WWW.MASS.GOV/IG

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2019 HIGHLIGHTS

In 2019, the Office of the Inspector General (“Office”) responded to over 1,380 hotline complaints and conducted investigations and reviews in such areas as public administration, health and human services, municipal authorities, public procurement, public benefits, public works, pensions and transportation. The Office’s work led to prosecutions, legislative initiatives, and policy changes at the state and local levels. Because education is key to preventing the misuse of government funds, the Office continued to expand its professional training program. In 2019, the Office offered more classes throughout the Commonwealth, increased its videoconference classes and launched new online training videos. It also continued to collaborate with state and local agencies to provide training customized to the agency’s specific needs. And, recognizing that individuals learn in different ways, the Office developed its first fully online course. The nine-week Supplies and Services Contracting class debuted on April 6, 2020. In March 2020, moreover, the Office temporarily moved all of its classes online in response to the COVID-19 public health emergency.

In 2019, we responded to 1,380 complaints on our Fraud Hotline.

In keeping with its strategic plan, the Office established two fellowships to improve its recruitment and retention of a talented and diverse workforce. In July 2019, the Office welcomed its first Dr. Frances



Doctor Frances Burke

Burke Investigator Fellow. In March 2020, its first Justice Geraldine Hines Legal Fellow joined the staff. Both two-year fellowship programs provide substantive and valuable experience to individuals with a strong commitment to public service. The programs are designed to allow each fellow to learn about the wide variety of work the Office performs, with the hope of offering full-time employment at the end of the fellowship.



Justice Geraldine Hines

The Office continued to work with Northeastern University’s cooperative education program and the academic internship program at New England Law School. It also continues to expand its relationships with other colleges and universities, including Boston College and UMass Lowell, Boston University, Harvard University and Suffolk University.

The Office continued to emphasize professional development by encouraging employees to enroll in certification programs through organizations such as the Association of Inspectors General and the Association of Certified Fraud Examiners. Members of the Office also participated in the Commonwealth’s year-long CORE management program. Other employees attended specialized trainings on topics such as computer forensics, data analytics, interview techniques and healthcare

fraud. As part of its commitment to a positive and supportive workplace, the Office also provided office-wide trainings on subjects such as preventing violence in the workplace, ethics, fraud reporting, implicit bias and sexual harassment prevention.

Looking more closely at specific divisions within the Office, the Audit, Oversight and Investigations Division (“AOI Division”) worked on many investigations – either on its own or with prosecutors – that are not yet public. However, in 2019, the AOI Division’s work on numerous criminal and civil matters became public through indictments, settlements and public recommendations for corrective measures. For instance, the Office received public recognition for the AOI Division’s role in a joint investigation with the United States Attorney’s Office, the FBI, the Internal Revenue Service and the United States Department of Housing and Urban Development that led to the arrest of the then-mayor of Fall River and several of his associates in September 2019. Through the AOI Division, the Office also played a public role in examining the post-retirement employment of a former Boston Public Schools headmaster and recommending that the Boston Retirement Board recover at least \$67,000 from her future pension payments.

In addition to fulfilling its statutory mandate to conduct reviews and investigations related to various Executive Office of Health and Human Services (“EOHHS”) agencies, in 2019, the Bureau of Program Integrity (“Bureau”) hosted a statewide Summit for 40 managers from EOHHS and its agencies on the administration of Supplemental Nutrition Assistance (“SNAP”) benefits to residents of group homes. Also, in carrying out its mandate, the Bureau assisted in the prosecution of two Department of Developmental Services (“DDS”) employees, one for overtime fraud totaling \$40,000 and another for misappropriating DDS funds to buy \$15,000 of groceries for personal use. The Bureau supported the development of DDS’s Bureau of Program Integrity and its internal controls and risk management program as well as recommended the implementation of a Program Integrity Division within the Department of Mental Health. Additionally, the Bureau reviewed the oversight that EOHHS agencies exercise over vendors, including DDS vendors administering group homes; the Department of Transitional Assistance’s implementation of a new \$64 million employment services program; and the Department of Children and Families’ implementation of its after-hours hotline contract.

In July 2018, in response to the discovery that some state troopers assigned to patrol the Massachusetts Turnpike were being paid for overtime shifts they had not worked, the legislature established the Division of State Police Oversight (“DSPO”) within the Office. During 2019, the DSPO conducted a comprehensive review of the Massachusetts State Police’s (“MSP”) paid-detail policy with particular focus on the “travel time” section of the policy. After the DSPO’s review, the MSP made changes to that section of the policy in order to ensure that troopers are properly accounting for travel time to and from a detail. The DSPO also initiated a review of the overtime shifts for all highway patrols to determine whether the abuses discovered in the Massachusetts Turnpike patrols were happening elsewhere in the state. The DSPO’s overtime review is ongoing.

The Internal Special Audit Unit (“ISAU”) continued to delve into the operations of the Massachusetts Department of Transportation in 2019. Among other things, ISAU conducted an initial review of the MBTA’s privatization of its warehouse operations, identifying multiple ways the private vendor’s performance fell short of its contractual obligations and recommending improved oversight.

Following the discovery that the Registry of Motor Vehicles' Merit Rating Board was not acting on information about out-of-state accidents involving drivers licensed in Massachusetts, the ISAU agreed to review the Merit Rating Board's operations, financing and statutory obligations. This review is ongoing. In addition, the ISAU also reviewed the MBTA's administration of its "non-revenue fleet," the passenger vehicles assigned to individual employees, specific departments or used as pool vehicles. The ISAU found lax controls in the assignment of state-owned vehicles to individual employees. ISAU is currently working with the MBTA to improve the control environment.

The Policy and Government Division ("P&G Division") is responsible for overseeing many of the Office's legislative mandates, including a requirement to conduct healthcare reviews focusing on the Massachusetts Medicaid and Health Safety Net programs. In March 2019, the P&G Division issued a multi-faceted report examining MassHealth's oversight in five different areas: personal care attendants, adult day care centers, the adult foster care program, dentistry and optometry. Separately, the P&G Division continued to participate in the development of policies and procedures related to the Commonwealth's public design and construction laws, reviewed public land transactions and provided input on over 100 pieces of legislation.

Also during 2019, the Regulatory and Compliance Division ("R&C Division") provided technical assistance to state and local government officials regarding Massachusetts' public procurement laws, trained approximately 2,300 participants in procurement law, fraud awareness and public governance through its MCPPO training program, and responded to 1,418 inquiries about public bidding laws. Because education is vital to preventing fraud, waste and abuse, the R&C Division also expanded its training program by adding new classes; offering more on-site classes across the Commonwealth; and publishing newsletters, advisories and procurement charts. Most importantly, the R&C Division has led the effort to develop online classes. Additionally, as it did in 2018, the Office continued to hold a summer session during July and August with all summer classes held outside of Boston.

**In 2019, we responded to
1,418 calls on our
Chapter 30B Hotline.**

Further details about the activities summarized above, as well as the results of additional investigations, reviews and other projects, are set forth in the rest of this report.

ABOUT THE OFFICE

The Office of the Inspector General for the Commonwealth of Massachusetts (“Office”) is an independent agency charged with preventing and detecting fraud, waste and abuse in the use of public funds and public property.

To fulfill its broad statutory mandate, the Office investigates allegations of fraud, waste and abuse at all levels of government and reviews programs and practices in state and local agencies to identify vulnerabilities and opportunities for improvement. Beyond investigations, the Office provides education to help prevent fraud, waste and abuse in government spending. It offers personalized guidance to local government officials on issues that arise under the Uniform Procurement Act, M.G.L. c. 30B (“Chapter 30B”), which governs the purchase and disposition of supplies, services, equipment and real property by municipalities and other public entities. The Office also educates public and private employees through its Massachusetts Certified Public Purchasing Official (“MCPPO”) training program.

When conducting an investigation or review, the Office has the authority to subpoena records, interview witnesses and take testimony under oath. At the completion of an investigation, review or other project, the Office may issue a letter or report detailing findings and outlining recommendations to prevent future fraud, waste and abuse. In some instances, the Office will offer training, policy guidance or technical assistance. In other cases, the Office may require the agency, city or town to submit a corrective action plan detailing the measures it will take to address the problems identified during the Office’s investigation.

Further, the Office reports suspected criminal activity to the appropriate authorities, including the Massachusetts Attorney General’s Office and the U.S. Attorney’s Office. In addition, the Inspector General meets regularly with the Inspector General Council to discuss the Office’s activities.

The Office is organized into eight divisions: Administration and Finance; Audit, Oversight and Investigations; the Bureau of Program Integrity; the Division of State Police Oversight; the Internal Special Audit Unit; Legal; Policy and Government; and Regulatory and Compliance.

The **Administration and Finance Division** provides vital support to the entire Office by managing the Office’s finances, human resources, case management system, information technology, operations and procurement.

The **Audit, Oversight and Investigations Division** (“AOI Division”) investigates allegations of criminal and civil misconduct in the use of public funds. When an investigation reveals potential criminal conduct, the AOI Division often works closely with other law enforcement agencies – such as the FBI, the state police, federal inspectors general and local police departments – as well as with prosecutorial agencies, including the Massachusetts Attorney General’s Office, the U.S. Attorney’s Office and local district attorneys’ offices. Further, the AOI Division works on matters involving potential civil actions, either directly with the affected municipality or in conjunction with the Attorney General’s Office. The AOI Division also alerts the State Ethics Commission to potential ethics violations, such as self-dealing and the receipt of unwarranted privileges. At any given time, the AOI Division may be investigating

allegations of public corruption or other wrongdoing in a wide array of public sectors, such as administration, education, housing, municipal and county programs, public benefits, public land and public safety.

Additionally, the AOI Division works to prevent and detect fraud, waste and abuse by conducting large systemic reviews; proposing legislative and regulatory changes; and recommending improvements to internal and financial controls in the expenditure of public funds. The AOI Division also issues public advisories and letters to help state and local governments reduce fraud, waste and abuse.

The **Bureau of Program Integrity** (“Bureau”) focuses on promoting quality, integrity and efficiency within the Executive Office of Health and Human Services (“EOHHS”) and its agencies. In this role, the Bureau is responsible for preventing, detecting and correcting fraud, waste and abuse in benefits programs through investigations, performance audits and reviews, as well as consultation and collaboration with EOHHS agencies.

The **Division of State Police Oversight**¹ (“DSPO”) monitors the quality, efficiency and integrity of the Massachusetts State Police’s (“MSP”) operations, organizational structure and management functions. Additionally, DSPO seeks to prevent, detect and correct fraud, waste and abuse in the expenditure of public funds and monitors policy changes instituted as a result of the MSP’s certification or accreditation by a state or national police accrediting agency pursuant to M.G.L. c. 22C, § 73.

The **Internal Special Audit Unit** (“ISAU”) monitors the quality, efficiency and integrity of the Massachusetts Department of Transportation’s (“MassDOT”) operating and capital programs. Additionally, the ISAU provides oversight of the Massachusetts Bay Transportation Authority. As part of its statutory mandate, the ISAU seeks to prevent, detect and correct fraud, waste and abuse in the expenditure of public and private transportation funds. The ISAU is also responsible for examining and evaluating MassDOT’s operations, including its governance, risk-management practices and internal processes.

The **Legal Division** provides essential legal advice to the Office and manages legal strategy in all Office litigation. Attorneys in the Legal Division represent the Office in state and federal court, draft and review legislation, teach procurement law, and provide guidance on public procurement matters to state and local officials.

Attorneys in the Legal Division also assist the Office’s investigatory divisions by taking testimony, analyzing evidence, conducting legal research, coordinating responses to and enforcing summonses, and liaising with state, municipal and private entities on legal issues that may arise during an investigation or review. Attorneys in the Legal Division’s **Civil Recovery Unit** investigate and develop matters for potential civil recovery pursuant to M.G.L. c. 12A, § 11. These attorneys work closely with the other investigative units within the Office, frequently partnering on investigations that may be appropriate for

¹ M.G.L. c. 22C, § 72, refers to the Division as “an internal special audit unit.” The Inspector General renamed the Division to avoid confusion with the previously created Internal Special Audit Unit within the Department of Transportation (see M.G.L. c. 6C, § 9).

civil recovery. The Civil Recovery Unit also works closely with the Massachusetts Attorney General's Office when developing matters for litigation or preparing for settlement.

The **Policy and Government Division** ("P&G Division") oversees the Office's policy, healthcare and legislative initiatives. The P&G Division is responsible for carrying out the legislature's annual mandate for the Office to study and review the Massachusetts Medicaid and Health Safety Net programs. The P&G Division also reviews programs and practices in state and local agencies to identify system-wide vulnerabilities and opportunities for improvement.

In addition, the P&G Division helps develop policies and procedures related to the Commonwealth's public design and construction laws. The P&G Division works with state agencies and authorities throughout the Commonwealth to establish best practices in public construction. Each year, the P&G Division reviews public design and construction projects, methods and practices, as well as public real property transactions, to ensure that the public's interests are protected. Finally, during each legislative session, the P&G Division reviews and comments on numerous pieces of legislation, meets with and provides guidance to legislators and municipalities, and responds to requests from the Governor's Office to review proposed legislation before it is signed into law.

The **Regulatory and Compliance Division** ("R&C Division") leads the Office's educational initiatives, including the Massachusetts Certified Public Purchasing Official ("MCPPO") training program, and provides guidance on public procurement matters to state and local officials.

In Massachusetts, public purchasing officials are responsible for procuring the supplies, services and facilities needed to provide public services to their communities. These procurements involve considerable expenditures of public funds. As a result, it is vital that state and local officials understand procurement processes and comply with all applicable legal requirements. To meet this vital need, the R&C Division provides training and professional development through the MCPPO training program, which provides a wide range of classes concerning good government, including public procurement, internal controls, board governance, contract administration and fraud prevention. Other state agencies furnish valuable contributions to the program, including speakers and instructors on specialized topics. The R&C Division also publishes manuals, advisories and the *OIG Bulletin* (formerly the *Procurement Bulletin*).

To further assist state and local officials, the R&C Division offers a hotline where staff respond to inquiries and complaints concerning the public procurement of supplies, equipment, services and real estate in accordance with the Uniform Procurement Act, M.G.L. c. 30B ("Chapter 30B"). The R&C Division also interprets and formulates policies on Chapter 30B. The R&C Division also offers trainings to assist architects and owner's project representatives comply with Massachusetts School Building Authority ("MSBA") regulations. This helps ensure that the professionals involved with school design and construction in Massachusetts are familiar with applicable procurement and construction law and MSBA requirements. The R&C Division also provides trainings for and offers certificates to Massachusetts Charter Schools as required by Chapter 46 of the Acts of 1997.

HOTLINES

I. Fraud, Waste and Abuse Hotlines

The Office is committed to ensuring that individuals can confidentially report suspected wrongdoing in the use of public funds or assets. Individuals therefore can report suspected misconduct to the Office in person or by telephone, U.S. mail, email, through the Office's website or facsimile (collectively, "hotlines"). All complaints to the Office's hotlines are treated confidentially, and individuals can choose to submit a complaint anonymously.

**Frauds are more likely to be detected
when a hotline is in place.**

2018 Report to the Nations, Association of Certified Fraud Examiners

The Office evaluates each complaint to determine whether it falls within the Office's jurisdiction and whether it warrants action. Some complaints lead to extensive investigations, some are referred to other agencies and others are closed if a preliminary inquiry fails to substantiate the allegations.

While not all complaints result in an investigation or review, many uncover wrongdoing, such as corruption, theft, time fraud, favoritism in selecting contractors, mismanagement or wasteful spending. Complaints made to the Office's hotlines also result in improvements in how government agencies operate. Complaints often lead to cost recoveries and civil settlements as well.

The Audit, Oversight and Investigations Division ("Division") operates the Office's main fraud hotline in collaboration with other divisions in the Office. In this role, the Division carefully reviews and evaluates all complaints it receives. The Internal Special Audit Unit ("ISAU") maintains a hotline for members of the public to report suspected fraud, waste or abuse related to public transportation programs and the misuse of transportation funds. The hotline is available on the Office's, MassDOT's and the MBTA's websites. The ISAU also maintains an employee hotline on MassDOT's intranet and monitors the RMV's disability parking placard hotline.

The Office received 6,985 hotline complaints between January 1, 2013 and December 31, 2019. The volume of complaints has grown by 134% in seven years. In 2019 alone, the Office received and responded to 1,380 complaints. The main fraud hotline received 1,173 complaints while the ISAU hotlines received 207 complaints.

Figure 1. Fraud Hotline Complaints by Calendar Year

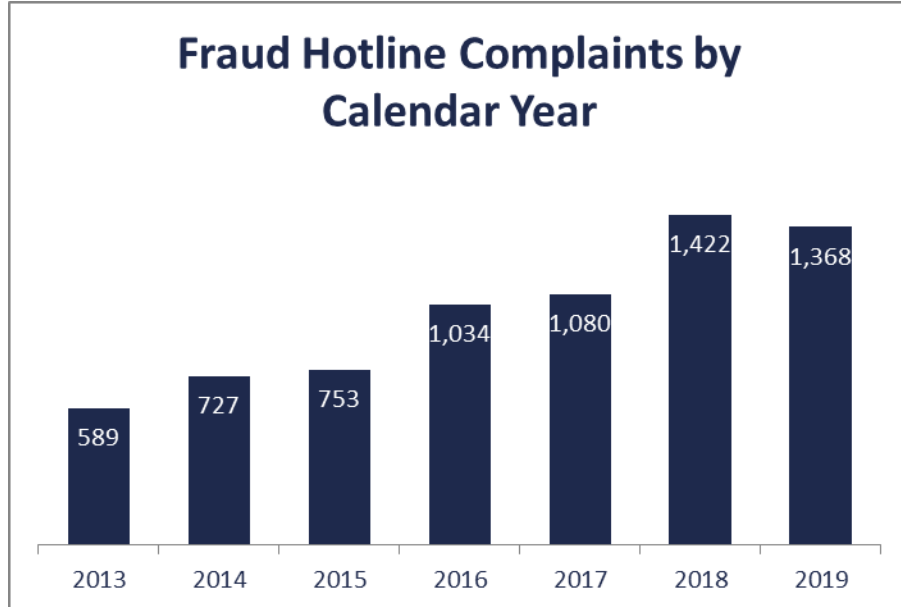


Figure 2. Fraud Hotline Complaints by Month (2019)

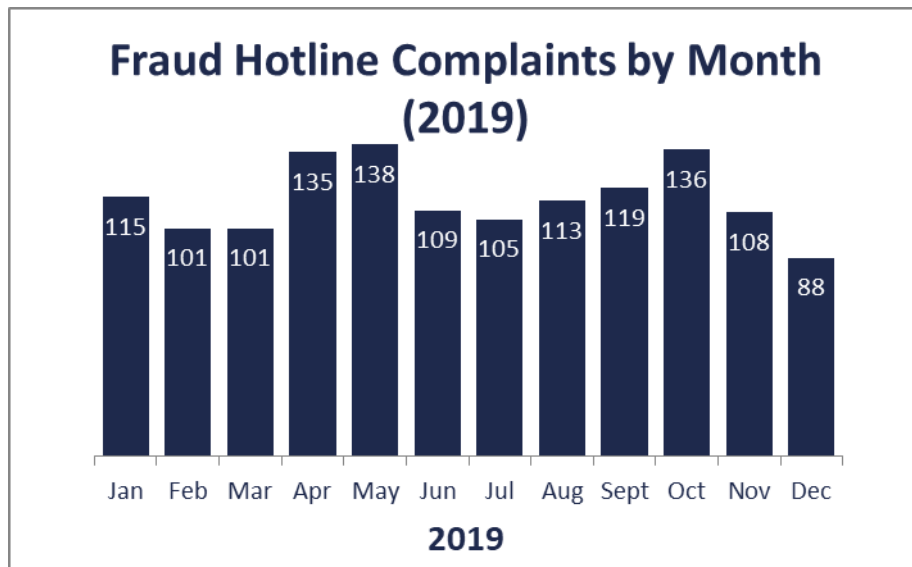


Table 1. Fraud Complaints: Top Five Hotline Topics

Fraud Complaints: Top Five Hotline Topics	Number of Complaints
1. Scams	191
2. Benefit Fraud	189
3. Embezzlement/Theft/Misuse of Public Funds	96
4. Healthcare	68
5. Local Government Issues	67

II. Chapter 30B Hotline

Education is critical to improving government and safeguarding public assets. Consequently, the Office has established a hotline to respond to questions and complaints concerning public procurements and the Uniform Procurement Act, M.G.L. c. 30B ("Chapter 30B"). Through the hotline, the Office helps municipalities comply with state bidding laws and conduct fair, open and competitive procurements. Calls to the hotline also lead public entities to rebid contracts, strengthen procurement procedures, institute internal controls and implement other process improvements. In 2019, the Office responded to 1,418 inquiries and questions about Chapter 30B, public construction bidding laws, local purchasing requirements, fraud prevention and internal controls.

Figure 3. Chapter 30B Hotline Calls by Calendar Year

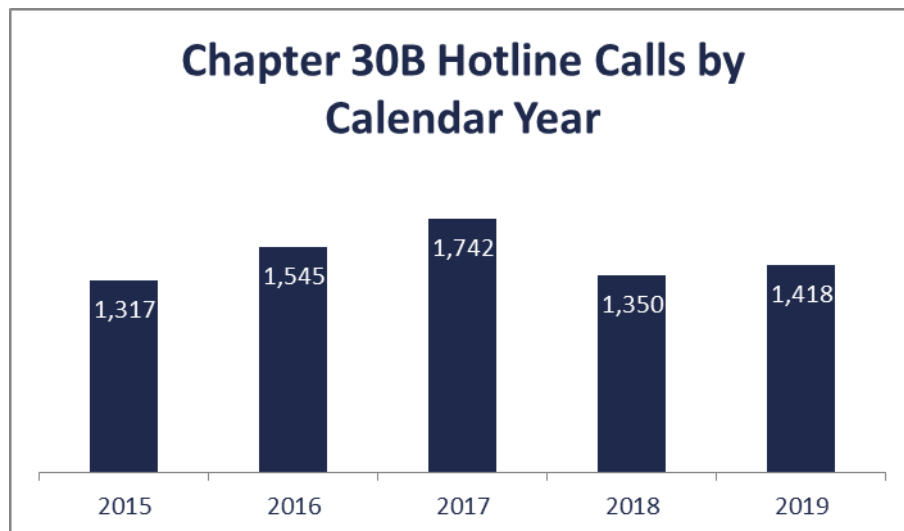


Figure 4. Chapter 30B Hotline Calls by Month (2019)

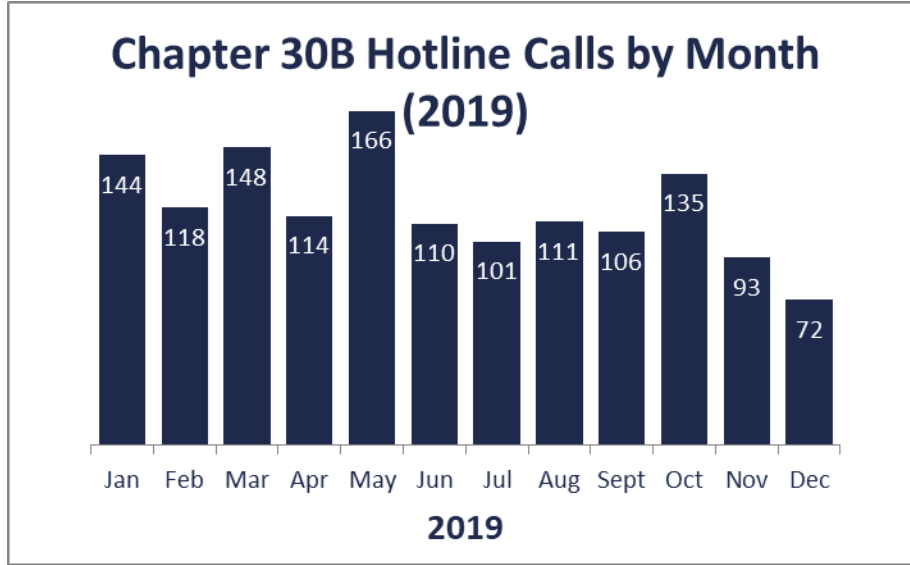


Table 2. Chapter 30B Calls: Top Five Hotline Topics

Chapter 30B Calls: Top Five Hotline Topics	Number of Calls
1. Chapter 30B applicability (i.e., whether Chapter 30B applies to a specific purchase)	184
2. Acquisition and disposition of real property	103
3. Disposition of surplus supplies	31
4. Cooperative purchasing	30
5. Advertising bids and proposals	27

AUDIT, OVERSIGHT AND INVESTIGATIONS DIVISION

As previously discussed, the Audit, Oversight and Investigations Division (“Division”) investigates possible misconduct in the use of public funds and property and recommends improvements to internal and financial controls to prevent the misuse of government assets. The Division also conducts reviews into potential waste and abuse in the expenditure of public funds.

AUDIT, OVERSIGHT AND INVESTIGATIONS DIVISION

- (1) Investigates possible criminal and civil misconduct in the use of public funds and property.**
- (2) Recommends improvements to internal and financial controls to prevent the misuse of government assets.**
- (3) Conducts reviews into potential waste and abuse in the expenditure of public funds.**

In this role, the Division receives, reviews and processes complaints addressed to the Office. In some instances, these complaints lead to comprehensive investigations, while in other instances the Division may forward the complaint to the appropriate oversight, regulatory or prosecutorial agency. The Division forwards complaints to other agencies if, for instance, a preliminary investigation reveals that the complaints are outside of the Office’s jurisdiction. In addition to complaints, the Division’s investigations arise from many other sources, including anonymous tips; information developed during the course of other reviews and activities; and requests for assistance from other investigative agencies, including local authorities, federal agencies, the state police and prosecutorial agencies.

In 2019, the Division responded to over 1,173 unique complaints from public employees, private citizens, municipalities, and other public and private entities. The Division investigated and reviewed a wide range of alleged wrongdoing, including theft, bribery, extortion, false claims, tax fraud, false statements, time fraud, larceny, forgery, embezzlement and procurement fraud. The Division’s work crossed diverse areas of government, including administration, education, housing, municipal and county programs, public benefits, public land and public safety. Below is a representative sample of the Division’s work from 2019.

I. Administration

A. Former Fall River Mayor and Associates Indicted on Corruption and Conspiracy Charges

The Office conducted a joint investigation with the United States Attorney's Office, the FBI, the Internal Revenue Service and the United States Department of Housing and Urban Development into alleged extortion, theft, bribery and false statements by the former mayor of Fall River, Jasiel Correia.

During his tenure as mayor, Mr. Correia issued at least 14 non-opposition letters for marijuana businesses to operate in Fall River, including two for his girlfriend's brother. A marijuana business cannot get a state license to operate without first receiving municipal consent. Mr. Correia allegedly agreed to issue these non-opposition letters in return for cash bribes that ranged from approximately \$100,000 to \$250,000, as well as for other payments such as campaign contributions, mortgage discharges and a Rolex watch valued at between \$7,500 and \$12,000.

In September 2019, Mr. Correia was arrested and charged with bribery, conspiracy, extortion, aiding and abetting, wire fraud and filing false tax returns. Genoveva Andrade, Mr. Correia's former chief of staff, was charged with extortion, conspiracy, theft, bribery and making false statements. Antonio Costa, Hildegar Camara and David Hebert, associates of Mr. Correia, were charged with extortion, conspiracy and making false statements in connection with statements they allegedly made to federal agents about their roles in assisting Mr. Correia to extort money and property from marijuana vendors.

The indictment also alleges that Mr. Correia demanded and received kickbacks from his former chief of staff, Ms. Andrade, in return for appointing her and allowing her to keep her city job.

Mr. Correia, Ms. Andrade, Mr. Costa, Mr. Camara and Mr. Hebert are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

B. Inspector General Recommends that Malden Hire a CFO to Implement Financial Controls

The city of Malden requested that the Office review the conditions that led to the arrest and indictment of a former employee of the city's Permits, Inspections and Planning Services Department ("Department"). In November 2018, the former employee admitted to sufficient facts to resolve charges of larceny over \$250, uttering, forgery and embezzlement. The employee agreed to pay restitution, received two years of probation and had his case continued without a finding for two years.

In response to the city's request, the Office reviewed and evaluated the Department's payment intake process. The Office focused on the internal controls at the time the crimes occurred and the policy revisions the Department adopted after the misconduct was identified. Additionally, the Office followed up with the city after the city appointed a new Department director and a new Treasurer.

The Office found that the Department of Revenue and external auditors had repeatedly informed city officials that weak financial controls made it vulnerable to embezzlement and other misuse. However, the city failed to address these deficiencies by, for example, implementing documented, sustainable, cross-departmental controls. Furthermore, the Office found that the internal control environment for handling checks and cash in the Department was extremely weak, it lacked basic controls, including segregation of duties, regular reconciliations, employee accountability and monitoring.

The Office also found that the city reacted to the embezzlement by improving financial policies and procedures, as well as implementing certain basic financial controls. However, the city failed to formalize those improved financial policies and basic internal controls by putting them in writing. When the Office conducted follow-up to reassess the Department's operations following management turnover, some of the improved procedures and controls were no longer in effect. The lack of documented policies and procedures exposed the city to the same internal control vulnerabilities that allowed the original criminal conduct to occur.

Additionally, the Office found that a number of the deficiencies that enabled the theft had already been identified in 2009 by the city's outside auditor, who recommended that the city hire a Chief Financial Officer ("CFO") to oversee its entire financial operation. While the city has authorized incorporating a CFO-like oversight role into either its Treasurer, Controller or Assessor positions, it has repeatedly failed to assign them to a particular employee or to fund a new CFO position.

The Office recommended that the city hire a CFO to oversee financial operations across all government departments, monitor the city's day-to-day financial operations and establish internal controls. The Office also recommended that the city finalize its *Financial Policies and Procedures Manual* before the end of the fiscal year.

In response to the Office's recommendations, the city hired an internal auditor and the controller's office finalized its *Financial Policies and Procedures Manual*.

II. Education

A. Former Marblehead METCO Director Indicted for Larceny

The Office conducted a joint investigation with the Essex County District Attorney's Office into allegations that the former Director of the Marblehead branch of the Metropolitan Council for Educational Opportunity ("METCO"), Francois Fils-Aime, stole approximately \$20,000 from a fund designated to support the METCO program at Marblehead High School.

Mr. Fils-Aime is accused of using a bank account referred to as The Marblehead METCO Sunshine Fund for his personal expenses, including restaurant meals. The account was funded by yearly dues from parents of students in the METCO program, as well as from donations from individuals and organizations.

The investigation revealed evidence that the Marblehead School Department did not know about the bank account while Mr. Fils-Aime worked for the school. In 2017, however, the school allegedly discovered the account after Mr. Fils-Aime left the school system and organizations inquired to whom they should make their annual donation.

An Essex County grand jury indicted Mr. Fils-Aime on larceny charges for stealing money intended to benefit students. He is presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

B. Office Recommends the Boston Retirement Board Recover \$67,000 from Retired Boston Headmaster

In 2019, the Office reviewed work that a Boston Public Schools (“BPS”) headmaster, Linda Nathan, performed for a public charter school to determine whether she violated the earnings limitations Section 91 of Chapter 32 of the Massachusetts General Laws (“Chapter 91”).

Ms. Nathan worked for the BPS for more than 32 years. During the last 16 years of her service, she was a headmaster.² When Ms. Nathan retired from the BPS in 2014, she began receiving a monthly pension of \$8,654 (\$103,842 a year).

The Conservatory Lab Charter School (“CLCS”) is a public charter school. In 2015, CLCS established a search committee to replace its retiring Head of School. The search committee chose Ms. Nathan to lead both CLCS and the Center for Artistry and Scholarship in Education (“CASE”), a non-profit established by CLCS’s board of trustees to assist CLCS in meeting certain responsibilities under its charter. At the time, CASE only existed on paper, it lacked a staff, and its board had never formally met. CLCS offered Ms. Nathan the position of Executive Director of CASE for \$150,000 a year.

Chapter 91(b) of Chapter 32 of the Massachusetts General Laws limits the salary that a retired public employee can receive from a public entity. Specifically, it limits it to the difference between the retiree’s yearly pension and “the salary that is being paid for the position from which he was retired.” See M.G.L. c. 32, § 91.

The Office found that Ms. Nathan was (and is) being paid to provide services to a public entity, CLCS. Specifically, the Office determined that more than 65 percent of Ms. Nathan’s salary should be attributed to providing service to CLCS. Furthermore, Ms. Nathan’s pension plus the portion of her salary attributable to public service exceeds the salary she would have earned if she had remained a BPS headmaster. The Office concluded that as of April 6, 2020, Ms. Nathan owed the Boston Retirement Board \$67,979.

² At the BPS, the title “headmaster” is equivalent to that of a principal in other jurisdictions.

In its [letter](#) to the Retirement Board, the Office recommended that the board conduct its own analysis and recover any overearnings from Ms. Nathan. The Retirement Board is reviewing Ms. Nathan's post-retirement earnings.

III. Housing

A. Joint Investigation Leads to Indictment of a Former Non-Profit Employee for Embezzlement

The Office conducted a joint investigation with the Massachusetts Attorney General's Office into allegations that a former non-profit manager embezzled more than \$45,000 from Heading Home, Inc., a Charlestown-based organization that provides housing assistance to individuals and families.

Between March 2015 and November 2016, Donna Scott allegedly stole more than \$45,000 that was intended to provide transitional and permanent housing and support services to individuals and families experiencing homelessness. At the time, Ms. Scott was a manager at Heading Home, Inc., which is partially funded by grants from the state's Department of Housing and Community Development.

In 2019, a Suffolk County grand jury indicted Ms. Scott on one count of larceny over \$250. She is presumed innocent until proven guilty.

IV. Municipal and County Programs

A. Plymouth County Dredge Program Wasted Resources

The Office reviewed Plymouth County's Dredge Program ("program"), specifically the County's \$212,000 purchase of excavating equipment in 2015 and its subsequent use and benefit to County communities. The Office concluded that the program has been unsuccessful because the County did not adequately plan to effectively utilize its capital investment. Further, the County did not properly secure municipal funding that would allow it to purchase the additional equipment and hire the staff needed for the program.

The County formed the program in 2013 with the goal of providing low-cost dredging services to Plymouth County municipalities. The County planned to fund the program, including hiring staff and buying additional equipment, through annual fees collected from participating communities. Several communities initially expressed strong interest in the program.

In 2014, the County received \$250,000 from the Commonwealth to purchase saltwater dredging equipment and in 2015 the County bought a John Deere excavator for \$212,000. The excavator was delivered to the town of Kingston's transfer station in June 2015. In 2016, the County received another \$200,000 from the Commonwealth and paid an additional \$3,594 to extend the equipment's warranty, leaving a balance of \$233,806 for the program.

In the meantime, municipalities decided not to participate in the program due to concerns about lack of proper equipment, staff and funding. The excavator sat, unused, at the transfer station until June 2019. The County continued to propose various uses for the excavator while it remained stored at the Kingston transfer station; however, these projects never materialized. In 2019, County rented the excavator for one week to the town of Harwich for \$1,400.

The Office found that the County did not secure funding from the participating municipalities that would have made the dredge program feasible. The County moved forward with a purchase of the excavator before the program was fully funded and, in doing so, put itself in a position of owning a piece of equipment with no operator or supporting infrastructure.

The Office also found that the County's lack of equipment posed logistical challenges to municipalities that were difficult to overcome and limited the program's effectiveness. The County also lacked the requisite skilled employees to operate the equipment and the withdrawal of communities left the County without the operating revenue to hire any staff.

In its [letter](#), the Office recommended that the County determine whether communities would actively participate in a dredge program if it was properly staffed and equipped; if so, the County should secure written funding agreements from interested communities. The Office further recommended that if the County is unable to secure the funding to ensure that the program is fully operational, the County should consider ending the program, surplussing the excavator, and remitting all proceeds and unused funds to the Commonwealth. The Plymouth County Commissioners responded to and disputed the Office's findings; however, the Office stands by its findings and recommendations based on its thorough investigation.

B. Ratepayer Cost Burden: The Expense of Municipal Light Plants' Sick-Leave Payouts

The Office reviewed the sick-leave policies at 40 municipal light plants in Massachusetts, including the plants' policies for paying employees for unused sick leave. The Office found that for some light plants, employees' accrued sick leave represents a significant financial liability that ultimately is borne by their communities' ratepayers.

Over a six-year period, for example, 26 light plants paid approximately \$10.7 million to 219 employees for unused sick leave, an average of more than \$49,000 per employee. Three communities' light plants accounted for \$9.2 million (85 percent) of that total.

Table 3. Leave Time Payments

By the Numbers: Light Plants 2010 - 2016	
\$13,500,000	Paid to employees for unused leave time
\$10,700,000	Paid to employees for unused sick leave time
\$9,200,000	Total sick-leave payouts made by the Taunton, Reading, and Westfield light plants
\$350,000	Highest single sick-leave payout
\$49,000	Average payment for unused sick leave

The Office also found that light plants' sick-leave policies vary widely, from paying employees for 100 percent of their unused sick time when they leave the plant to no payouts to departing employees. In contrast, the state generally pays its employees for 20 percent for their unused sick time, and only upon retirement. Paying 100 percent of any unused sick leave creates an undue burden on ratepayers and light plant budgets, detracting from their ability to spend funds efficiently and in the best interest of the ratepayers. Also, certain light plants pay employees at the end of each year for 100 percent of any unused sick leave.

In its [report](#), the Office recommended changes to light plant policies to bring them in line with either state or local rules on sick leave. The Office urged municipal officials to take an active role in overseeing the light plants in their communities, including conducting thorough reviews of light plant expenditures. Lastly, the Office recommended legislative measures, including requiring periodic audits and reporting leave balances.

V. Public Benefits

A. Office of the Inspector General Assisted on Federal Identity Fraud Cases

During 2019, the Office provided assistance to federal investigators and prosecutors on cases involving identity theft and benefit fraud. The Office identified two individuals who obtained a driver's license using another person's identity. This information was provided to a federal taskforce that combats public benefits fraud.

The United States Attorney's Office charged the two individuals that the Office identified and three others with aggravated identity theft and false representation of a Social Security number. These

individuals are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

VI. Public Land

A. Montague Land Dispositions Violated Chapter 30B

The Office reviewed the disposition of town-owned land in the town of Montague. The Office found that the town violated Chapter 30B in its attempted sale of town parcel 29-180, known as Lot F. Specifically, the town's valuation of Lot F did not comply with Chapter 30B and its request for proposal ("RFP") improperly restricted the eligible buyers to one individual.

In 2018, the town tried to sell Lot F through an RFP process. The town received one bid below its minimum asking price. After the Office began its review, the town rejected the bid and cancelled the RFP.

The Office found that the town failed to determine the value of Lot F through procedures customarily accepted by the appraising profession, as required by Chapter 30B. The town listed the value of the land as \$5,100 based on 2016 data from the town Assessor's Office, whereas 2018 data from an appraising company listed the value of the land as \$20,200.

The Office also determined that the RFP included restrictive language requiring that bidders own an abutting property to Lot F. This restriction established a non-competitive process with only one eligible bidder and presupposed that no other potential buyer might find value in the property.

VII. Public Safety

A. Methuen Officials Violated State and City Rules to Approve Police Contract

Following calls and complaints to its fraud hotline, the Office conducted an investigation into Methuen officials' negotiation and approval of the city's most-recent contract with its police supervisors.

The Office found that the contract's terms would significantly raise salaries for the 26 sergeants, lieutenants and captains on Methuen's police force; some salaries would increase by more than 100 percent. For example, police captains' average salary would increase more than 180 percent from the prior contract, to \$432,295 per year. The captains' salaries would surpass those of top law enforcement officials for Massachusetts and major cities across the country.

Table 4. 2017 Police Salaries

Title	2017 Salary ³
Methuen Police Captain (estimated)	\$432,295
Los Angeles Police Commissioner	\$371,076
Chicago Police Superintendent	\$260,004
Massachusetts State Police Colonel	\$241,845
Boston Police Commissioner	\$238,846
New York City Police Commissioner	\$226,366

The investigation further revealed that the contract's unprecedented pay increases would have far exceeded the police department's budget. After the financial impact of the raises came to light, Methuen's mayor signed a memorandum of understanding ("MOU") that outlined somewhat smaller raises for superior officers, but still well above the level the department's budget could support. As a result of the MOU, city officials had issued layoff notices to 50 patrol officers, about half of the police department's uniformed staff.

Finally, even though the Mayor was paying the superior officers the salaries outlined in the MOU, the City Council never approved the MOU as required under local and state law.

The Office concluded that the former mayor and the Methuen City Council likely violated state laws failed to comply with their own municipal rules and breached their fiduciary duties to the residents of Methuen. Specifically, the Office found that:

- city officials failed to analyze the financial impact of the contract as mandated under city rules;
- the City Council voted to approve the contract on the same day it was introduced, violating the city's charter and a city ordinance;
- the City Council improperly invoked a procedural rule in order to allow councilors with conflicts of interest to vote on the contract; and
- city councilors and the former mayor neglected their obligations as public officials to exercise care and due diligence on behalf of Methuen's residents.

³ The first year of the Superiors' contract was 2017.

The Office recommended that the City Council take steps to rescind the police superiors' contract, including contacting the State Ethics Commission as well as consulting with legal counsel as to the validity of the contract and the MOU. After the Office issued the letter, Methuen stopped paying the superior officers based on the MOU and reverted to payment based on the prior contract. The superior officers' union and the city have negotiated a new contract that is more in line with police salaries in Massachusetts. It is awaiting approval of the City Council.

B. East Longmeadow's Surplus Disposition Did Not Consider Sale Options

The Office reviewed the disposition of a surplus fire truck by the town of East Longmeadow. The Office found that the town complied with the advertising requirements in Chapter 30B but that it could have been more financially advantageous to consider the fire truck's scrap metal or salvage value.

In 2017, the town published an invitation for bids ("IFB") for the disposition of a surplus fire truck. The town sold the fire truck that same year for \$1,501. In valuing the fire truck for the IFB, the town relied on the value the town Assessor's Office used to calculate excise taxes. The excise valuation, however, was insufficient to capture the truck's value as salvage or on the resale market. The Office also found that while the sale price (\$1,501) was reasonable, the town likely could have obtained a higher price for the surplus fire truck had it been sold as scrap metal or for salvage.

The Office recommended that, moving forward, the town determine the resale and salvage values of surplus public assets in compliance with Chapter 30B and that the town formalize its written policies for conducting surplus dispositions. Following the Office's review, the town did formalize its surplus disposition policies and submitted a copy to the Office.

BUREAU OF PROGRAM INTEGRITY

Created by the legislature in 2013, the Bureau of Program Integrity (“Bureau”) monitors the quality, efficiency and integrity of programs administered by the Executive Office of Health and Human Services (“EOHHS”). The Bureau contributes to the overall mission of the Office by conducting investigations and reviews in order to prevent and detect fraud, waste and abuse.

BUREAU OF PROGRAM INTEGRITY

- (1) Prevents and detects fraud, waste and abuse in programs administered by the Executive Office of Health and Human Services.**
- (2) Makes recommendations to improve the business processes that support benefits programs.**

In addition, pursuant to its enabling statute, M.G.L. c. 6A, § 16V, the Bureau must assist EOHHS agencies in order to improve eligibility processes, to coordinate program integrity efforts and to enhance data sharing. After the Bureau was created, the legislature added a specific mandate in Section 36 of Chapter 18 of the Massachusetts General Laws for the Bureau to work in consultation with the Department of Transitional Assistance (“DTA”) to develop a fraud detection program.

To fulfill its mandates, the Bureau conducts ongoing assessments of fraud and business risks. The Bureau takes many factors into account to assess risks, including the mission and scope of EOHHS programs, the potential impact on public funds, the potential impact on participants in the program and historical context regarding previously identified risks or corrective actions. With access to databases related to EOHHS agencies and programs, the Bureau relies extensively on data and analysis to conduct risk assessment. The Bureau follows up on its investigations, reviews and recommendations in order to ensure that EOHHS agencies continuously improve their administration of programs and address risks expeditiously.

While maintaining the Office’s independence, the Bureau works collaboratively with the senior management teams at EOHHS and its agencies. Since its creation in 2013, the Bureau has expanded the scope of its work beyond its initial engagement with DTA. In 2019, in addition to DTA, the Bureau engaged with the Department of Developmental Services (“DDS”), the Department of Mental Health (“DMH”) and the Department of Children and Families (“DCF”). This year, as discussed below, the Bureau also evaluated the quality, efficiency and integrity of the services provided by EOHHS vendors and the oversight that EOHHS agencies exercised over these vendors.

The Bureau also works in conjunction with other divisions within the Office on investigations and reviews. For example, in 2019, the Bureau assisted the Audit, Oversight and Investigations Division

with 16 complaints made through the Office’s hotline. In several instances, the Bureau opened a review or investigation in response to such complaints. These complaints also served as an important foundation for identifying emerging trends related to fraud and business risks in EOHHS agencies and programs.

2019 Highlights for the Bureau:

- Assisted with the prosecution of a DDS employee for overtime fraud totaling \$40,000;
- Assisted with the prosecution of a DDS employee charged with misappropriating DDS funds to buy \$15,000 worth of groceries for her personal use;
- Hosted a statewide Summit for 40 managers from EOHHS and its agencies on the administration of Supplemental Nutrition Assistance Program (“SNAP”) benefits to residents of group homes;
- Trained EOHHS investigators on the misuse of SNAP benefits at a training session hosted by the Disabled Persons Protection Commission;
- Recommended the implementation of a Program Integrity Division within DMH;
- Supported the development of DDS’s Bureau of Program Integrity and DDS’s internal controls and risk management program;
- Consulted with the Program Integrity Division at DTA to enhance data matching; and
- Conducted reviews and investigations related to the quality, efficiency and integrity of vendors that administer EOHHS programs, as well as the oversight that EOHHS agencies exercise over such vendors, including:
 - DDS vendors administering group homes;
 - DTA’s initial implementation of a new contract for a \$64-million employment services program; and
 - DCF’s implementation of its after-hours hotline contract.

I. SNAP Administration and Group Homes

Starting in 2017, while investigating a whistleblower complaint about a DDS employee who allegedly diverted resources from a group home to buy food for her personal use (which, as mentioned, led to a criminal prosecution), the Bureau found vulnerabilities in DDS’s approach to administering SNAP benefits in the group homes that it operates (“state-operated group homes”). Group homes are small, community-based residences that provide 24-hour, seven-day-a-week care to residents. Group homes in Massachusetts are operated directly by an EOHHS agency or a vendor. In light of the vulnerabilities found and the significant amount of public funds involved, the Bureau identified the administration of

SNAP benefits in group homes as a priority area, and it has developed partnerships with the senior leadership teams at EOHHS and its agencies to address identified risks.

During an investigation of a DDS employee, the Bureau found that DDS was not exercising appropriate stewardship of the SNAP benefits and recommended stronger controls for the administration of SNAP benefits on behalf of group home residents. To restructure DDS's administration of SNAP benefits, throughout 2018 and 2019, the Bureau facilitated a working group that included managers from DTA and DDS who shared data, reviewed cases and engaged in problem-solving. Starting in August 2018, the Bureau helped facilitate a second working group with DTA and DMH. This working group focused on group homes operated directly by DMH, which DMH calls Group Living Environments ("GLEs"). Throughout 2019, the Bureau supported both of these working groups with data analysis and other technical assistance aimed at assessing and addressing business risks and building an internal controls infrastructure for administering SNAP benefits to residents of group homes. The senior leadership team at EOHHS provided valuable support for these working groups and agreed to work collaboratively with the Bureau on a Secretariat-wide effort to improve the administration of SNAP benefits in a variety of EOHHS group-living programs.



The Bureau hosting a SNAP Summit for EOHHS and its agencies

In May 2019, in partnership with EOHHS, the Bureau convened an innovative, one-day Summit for representatives from DTA, DDS, DMH and the Department of Public Health ("DPH"). The Summit focused on the stewardship of SNAP benefits and public funds, and included training on SNAP program rules and on how to conduct risk assessments. The Bureau presented on the fraud risks in the group home setting; the Bureau emphasized that the best approach to serving residents of group homes involves collaborative case management and SNAP utilization monitoring efforts. At the Summit, the Bureau and EOHHS outlined the following next steps for EOHHS agencies:

- Secretariat-wide risk assessment, with the assistance of the Bureau, to identify vulnerabilities and improve controls related to the misuse and misappropriation of SNAP benefits in state- and vendor-operated group homes;
- Data-sharing to identify SNAP recipients who reside in group homes; and
- Budget planning around food purchasing, facilitated by EOHHS, to maximize the value and minimize the waste of SNAP benefits.

Following the Summit, the Bureau analyzed SNAP enrollment data to learn more about utilization of SNAP benefits in group homes operated by vendors. The Bureau found that there was significant variation among vendors in their SNAP enrollment rates. This data raised questions about whether vendors were fulfilling their obligations to maintain SNAP benefits for group home residents, to

utilize those benefits on behalf of the residents, and to offset the cost of food for group homes. The Bureau presented these findings at a post-Summit meeting in October 2019, hosted by EOHHS, to a group of managers representing EOHHS agencies.

To expedite risk assessment, the Bureau continued using the working group model; the Bureau facilitated working group meetings and led discussions about how DTA and DDS could share and analyze data related to vendor billing and SNAP benefit utilization. DDS worked directly with the Bureau to review enrollment issues and assess the extent to which vendors may have failed to maintain SNAP benefits and offset the cost of food in group homes. To complement the Bureau's risk assessment work, EOHHS and DDS initiated outreach to the vendor community to discuss problem-solving and training opportunities related to SNAP administration.

II. Department of Developmental Services

In addition to improving the administration of SNAP benefits in DDS group homes, the Bureau continued its broader efforts to improve DDS's internal controls infrastructure and to address fraud and business risks in its administration of group home programs. In 2019, the annual budget appropriation for state-operated group homes was \$217 million. The appropriation for vendor-operated group homes falls under a broader appropriation of \$1.2 billion for "residential and day programs" operated by vendors, which also includes several other types of community-based services.

A. DDS Bureau of Program Integrity

The Bureau continued to meet with DDS management on a regular basis throughout 2019, monitoring DDS's responses to the Bureau's recommendations and assisting DDS with developing its internal controls infrastructure. In 2018, in response to the Bureau's recommendations, DDS created its own Bureau of Program Integrity ("DDS BPI") and an internal fraud hotline. In 2019, DDS BPI expanded its capacity by hiring additional staff and placing internal controls coordinators in each regional office.

In addition, the Bureau regularly collaborated with managers in the DDS BPI who operate an internal fraud hotline. The number of complaints to DDS's hotline tripled between fiscal year 2018 (12 hotline complaints) and fiscal year 2019 (36 hotline complaints). Hotline complaints, which can be anonymous and from any source inside or outside of DDS, covered a range of fraud and theft issues involving DDS field offices, state-operated group homes and programs administered by vendors. The Bureau checked to ensure that DDS was conducting internal reviews, implementing risk management protocols and referring appropriate cases to law enforcement or other appropriate authorities.

B. State-Operated Group Homes

During 2018 and 2019, the Bureau outlined an extensive series of recommendations to strengthen the management of group homes, which were informed by complaints to the Office's hotline, the DDS hotline, data analysis, document review and employee interviews. For example, the

Bureau recommended and assisted DDS with identifying, pilot testing and implementing new procedures for food purchasing and payroll monitoring. In particular, the Bureau's investigators and analysts worked directly with DDS BPI to review payroll data and identify "red flags" for fraud and waste. The Bureau also provided technical assistance while DDS BPI developed reports, based on these "red flags," to monitor payroll data. These reports will help DDS supervisors and managers look for patterns and trends, such as excessive overtime hours and deviations from procedures regarding supervisory approval of electronic timecards. The Bureau's efforts were aimed at preventing the abuse of overtime, minimizing other vulnerabilities and building better, sustainable business practices for state-operated group homes.

To further strengthen the management of group homes, the Bureau focused a series of recommendations specifically on the role of the residential supervisor. Residential supervisors, also known as house managers, are the on-site managers of state-operated group homes. Through its investigative work, the Bureau found that DDS lacked controls and procedures for residential supervisors to follow. Where procedures were in place, residential supervisors often violated them or made *ad hoc* changes. There was also evidence that many of them had insufficient business skills to support their responsibilities for recordkeeping and data entry. The Bureau recommended that DDS take significant steps to manage and monitor residential supervisors more closely, develop the business skill sets of residential supervisors, create procedures to ensure consistency of practice among group homes, and enforce and monitor compliance with existing policies and procedures.

C. Vendor-Operated Group Homes

Vendors provide the vast majority of DDS's group home services; these vendors are non-profit organizations that vary in size and business structure. In 2019, 338 vendors provided residential and day program services to developmentally disabled individuals; within that group of 338 vendors, 112 vendors run group homes and serve approximately 8,400 individuals. As discussed above, the Bureau reviewed vendors' administration of SNAP benefits to group home residents and grew concerned about vendors' fiscal management and potential waste of public funds. Informed by additional budget data and hotline complaints about other potential waste and fraud, the Bureau initiated investigations and reviews and found significant concerns about selected vendors' fiscal management and stewardship of public funds. The Bureau also identified significant concerns about gaps in DDS's infrastructure for contract administration. As a result, the Bureau brought these concerns to the senior leadership at EOHHS and DDS in order to develop further context for them and to set priorities for problem-solving. The Bureau recommended that DDS:

- Utilize data analytics for program monitoring and risk assessment;
- Leverage the resources of DDS BPI to create systems for detecting fraud and waste in vendors' fiscal management and operations; and

- Break down internal silos and integrate resources within DDS to improve contract administration.

III. Department of Transitional Assistance

In 2019, the Bureau continued its support for DTA's Budget and Policy Analytics group, the internal group of data analysts at DTA who support data-informed and evidence-based management at DTA. The Bureau provided technical assistance and identified opportunities for DTA to study its own data in order to conduct risk assessment, evaluate program implementation, and identify strategies for continuous improvement and program development. In addition, the Bureau conducted reviews to improve employment support programs, program integrity, and intake and eligibility processes. In these areas, the Bureau made the following recommendations to DTA's management team:

- Expand the size and capacity of the Budget and Policy Analytics group;
- Continue to expand resources and opportunities for workforce development and economic stability through strategic partnerships with the Department of Career Services as well as other public and private agencies engaged in workforce development; and
- Establish a culture of collaboration with DTA's Program Integrity Division and promote agency-wide commitment to program integrity.

A. Intake and Eligibility Processes

In accordance with the Bureau's mandate, the Bureau continued to monitor DTA's intake and eligibility processes and assist with improving them. In 2018, the Bureau identified issues with the quality of data collection during the intake process for the Transitional Aid to Families with Dependent Children ("TAFDC") program, as well as flaws in DTA's intake and electronic document management systems. The Bureau recommended that DTA leverage TAFDC supervisors to engage in quality control of data collection and design system changes to improve electronic document management.

In 2019, in response to the Bureau's recommendations, DTA invited the Bureau to oversee a working group to improve TAFDC eligibility processing and electronic document management. DTA outlined plans for implementing changes to its policies and systems, but did not implement them, citing limited resources from the information technology division of EOHHS. The Bureau recommended that DTA focus on the following steps, which did not require system enhancements and would have significantly improved DTA's eligibility processes and functions:

- Leverage field supervisors as resources for quality control of case managers' data entry during the intake process;
- Revisit, clarify and monitor compliance with procedures for verifying recipients' identity, particularly for recipients who have received TAFDC or SNAP benefits in the past; and

- Assess existing electronic case management features in the eligibility database – and case managers’ utilization of them – in order to inform requirements for future enhancements.

The Bureau found that DTA remained focused on system enhancement as the primary way to improve eligibility processing and prioritized other initiatives for its program managers. The Bureau continued to address concerns about DTA’s IT resources and eligibility processes during regularly scheduled meetings with DTA’s senior management team.

B. Employment Support Programs

Since its establishment, the Bureau has dedicated significant resources to oversee welfare reform initiatives and improve DTA’s employment support programs, publishing reports in 2014 and 2016 and following up on key recommendations to improve program development.

For example, in 2018, the Bureau recommended specific ways for DTA to use data sharing to evaluate its ongoing implementation of the Work Innovation and Opportunity Act (“WIOA”). WIOA is a federal law that requires DTA to coordinate employment services for benefits recipients with the Department of Career Services (“DCS”), which oversees one-stop career centers. In 2019, in response to the Bureau’s recommendations, DTA implemented methods for self-assessment and created and distributed data reports to DTA and DCS staff, who reviewed metrics regarding their joint work and adjusted strategies accordingly. For example, DTA tracked the number of recipients who were referred to career centers, who enrolled in career center programs, and who exited career centers with and without employment. DTA also studied the demographic characteristics of these recipients and the amount of time that they spent receiving career center services. As a result, DTA and DCS had valuable insight into their joint case management processes as well as their outcomes, and the Bureau found that DTA had laid a sound foundation for data-informed program development and management.

Starting in May 2019, the Bureau conducted oversight of DTA’s implementation of a new 8-year, \$64-million contract for the Competitive Integrated Employment Services (“CIES”) program. The CIES program is part of DTA’s Employment Services Program; under this program, approximately 81 vendors provide training, education and job search services to 1,800 TAFDC recipients per year. Through this new contract, DTA indicated that it would focus on outcomes, rather than service components. Through a tiered payment structure, DTA intended to set requirements for vendors to deliver outcomes of family stability and a career pathway. DTA described the CIES program as a critical component of its “ecosystem for change,” through which DTA intended to become a “workforce agency.” In addition to the CIES program, DTA included its WIOA initiatives and initiatives for young parents in its plan for this coordinated system of workforce development resources.

The launch for the new contractual period began on July 1, 2019, and the Bureau conducted a close review, with DTA’s cooperation, during the first few months of DTA’s implementation of the contract. The Bureau found that DTA was in the process of restructuring its contract management, with the assistance of a consultant. The Bureau also found that DTA had requested enhancements to

EOHHS's invoice management system and wanted to expand the scope of data collection in the system, but it had encountered technical barriers when it pursued enhancements to an aging EOHHS invoicing system. The Bureau raised concerns that DTA had not planned adequately around these business risks. The Bureau offered these recommendations – which did not require any system enhancements – in order to build sound, evidence-based contract administration practices from the outset of the new contractual period:

- Analyze and improve the quality of the referrals that DTA case managers make to the CIES program.
 - The Bureau pointed out that DTA needed to understand the existing trends and practices in referrals to CIES vendors, through data analysis and case review, in order to improve referrals during the new contractual period.
- Evaluate vendor processes.
 - The Bureau encouraged DTA to visit vendors frequently, observe their operations and conduct joint case reviews in order to assess how vendors are implementing the new service model.

C. Program Integrity

In accordance with its statutory mandate, the Bureau continued to consult with DTA's Program Integrity Division on fraud detection and data sharing with other agencies. The Bureau met with DTA's Program Integrity managers on a regular basis as DTA proceeded with phased implementation of a new approach to utilizing employment and wage data collected by the Department of Unemployment Assistance ("DUA"). The Bureau followed up on its 2018 recommendations and assisted the Program Integrity Division with streamlining its processes and focusing on cases in which the potential overpayment presented a high risk of fraud. The Bureau supported the Program Integrity Division as it pilot tested new approaches and evaluated them incrementally. The Bureau found that the Program Integrity Division engaged in a careful implementation of the Bureau's recommendations and demonstrated the value of using data and self-assessment to improve its business processes. In addition, the Bureau found that DTA used these new processes effectively to detect fraud and initiate investigations into program violations.

In 2018, the Bureau recommended that DTA develop methods for utilizing the wage data to track outcomes for its employment programs. The Bureau proposed options for tracking individual recipients or cohorts of recipients and evaluating the potential impact of DTA's employment strategies and supports. Following up on this recommendation, the Bureau met with representatives from the Program Integrity Division, the TAFDC and SNAP program development teams, and the Budget and Policy Analytics group. The Bureau found a lack of integration within DTA across divisions and organizational units; across the agency, many still regarded the wage data as a resource solely focused on fraud detection. In December 2019, the Bureau met with managers from all of these divisions and

organizational units, along with DTA's senior team, to focus on building an understanding of the wage data and the Program Integrity Division's updated approach to using it. The Bureau further encouraged DTA's senior management team to break down silos within the agency in order to utilize the wage data not only for fraud detection, but also to inform employment services and strategies for engagement with recipients.

Working with the Program Integrity Division, the Bureau conducted an analysis of benefits recipients who earned income as Personal Care Attendants ("PCAs"). PCAs assist MassHealth members with personal care needs, and Medicaid members can obtain approval to hire PCAs to provide personal care in their homes. PCAs are employed by the member and are paid through third-party vendors who manage the Medicaid billing. DTA investigators pointed to examples of PCAs who failed to report their income and raised concerns about fraud risks. To assess potential vulnerabilities related to PCAs, the Bureau collaborated with the Policy and Government Division, which engaged in a broad review of the PCA program.

The Bureau used a 2018 data sample of PCAs and matched it with wage data from DUA and recipients' data from DTA. The Bureau found that 17% of those who were earning wages as PCAs were also receiving either TAFDC or SNAP benefits or both. The Bureau also found that 20% of the recipients who were employed as PCAs had never reported any income to DTA. In December 2019, the Bureau shared these results with DTA's senior team and encouraged them to lead an agency-wide study of benefits recipients and PCA employment. The Bureau identified opportunities for addressing recipients' failure to report PCA wages, as well as for supporting recipients who are engaging in PCA work and reporting their employment and income appropriately. The Bureau recommended collaborative work across the divisions within DTA to complete the following:

- Additional data analysis and case review to identify what obstacles to reporting employment and income that PCAs might encounter;
- Program support for addressing any such barriers as well as promoting PCA employment as a potential pathway to economic stability; and
- Investigations into potential intentional program violations for PCAs who presented a high risk of fraud and whose income was high enough to disqualify them from benefits.

IV. Department of Mental Health

The Bureau's involvement with DMH has been focused on the administration of SNAP benefits in state-operated group homes, which DMH calls Group Living Environments ("GLEs"). There are approximately 20 GLEs statewide. As discussed above, in 2018, the Bureau joined with DTA and DMH in a workgroup to identify and address vulnerabilities in the administration of SNAP benefits to residents of DMH-operated group homes. Throughout 2019, the Bureau worked directly with DMH to assess business and fraud risks, conducted through data analysis and a review of the utilization of SNAP benefits at the GLEs.

While collaborating with DMH, the Bureau found that the agency did not have important tools for business risk assessment. The Bureau recommended that DMH bring in additional resources to complete the risk assessment with respect to SNAP administration, identify high-priority risks and outline plans to address them. The Bureau also recommended data sharing between DTA and DMH regarding GLE residents who receive SNAP.

The Bureau also found that DMH had delegated business management functions of GLEs and stewardship responsibilities for SNAP benefits to its regional management without any structured oversight. The Bureau recommended that DMH build a stronger infrastructure for internal controls.

EOHHS assisted DMH in responding to these recommendations and brought in an individual consultant to assist with risk assessment. In addition, DTA and DMH agreed to share data, and the Bureau helped facilitate the exchange and analysis of the data. To address the Bureau's concerns about infrastructure, EOHHS and DMH outlined plans to create new management roles related to internal controls and program integrity. To assist EOHHS and DMH, the Bureau provided input on the ideal qualifications for these roles, as well as how to integrate them into the management infrastructure at DMH.

V. Department of Children and Families

In 2019, the Bureau continued working with DCF to improve its contract administration. In 2017 and 2018, the Bureau received complaints about the administration of DCF's vendor contract for after-hours hotline services and the performance of the vendor, Judge Baker Children's Center ("JBCC"). JBCC has operated the after-hours hotline for 37 years. The Bureau brought these complaints to EOHHS and DCF, and the Bureau found that they were already working with JBCC on a corrective action plan. The Bureau also found that DCF lacked the appropriate infrastructure for contract administration, and in September 2018, the Bureau provided an introductory training for DCF contract managers, focused on the fundamentals of contract administration and quality management.

DCF redesigned its after-hours hotline services and, in the spring and summer of 2019, engaged in a procurement process for a new service provider. Following the procurement, DCF selected Judge Baker Children's Center for a new, 10-year, 45-million-dollar contract for after-hours services.

In October 2019, as DCF was finalizing details around the new contract, the Bureau engaged with EOHHS and DCF to review the contract and monitor DCF's approach to implementing it. EOHHS and DCF collaborated with the Bureau during the review, providing materials related to the contract and DCF's initial implementation plan. The Bureau identified several areas in which DCF could improve its implementation plan and its ongoing review of the quality of the after-hours hotline services. The Bureau offered to provide technical assistance and training to the after-hours hotline contract administration team, as well as to JBCC, in order to institute best practices from the outset of the contract period. DCF and JBCC agreed to work closely together and to consult with the Bureau as they began to implement the contract. The Bureau recommended that DCF work with JBCC to:

- Develop and implement monitoring functions, such as data sampling, case review, surveys, staff and stakeholder interviews, and random audits;
- Create regular quality-management reports focused on current business risks;
- Implement other appropriate quality-management resources and functions; and
- Use data analysts and data reporting to support and monitor the quality, integrity and efficiency of the after-hours hotline services.

DIVISION OF STATE POLICE OVERSIGHT

In July 2018, the legislature created the Division of State Police Oversight⁴ (“Division”) through the passage of Section 72 of Chapter 22C of the Massachusetts General Laws.⁵ The legislature established the Division as an independent unit responsible for monitoring the quality, efficiency and integrity of the Massachusetts State Police (“MSP”).

DIVISION OF STATE POLICE OVERSIGHT

- (1) Monitors the quality, efficiency and integrity of the MSP's operations, organizational structure and management functions.**
- (2) Seeks to prevent, detect and correct fraud, waste and abuse in the expenditure of public funds.**
- (3) Monitors policy changes instituted as a result of the MSP's certification or accreditation by a state or national police accrediting agency pursuant to Section 73 of Chapter 22C of the General Laws.**

The Division’s scope encompasses, but is not limited to (1) monitoring the quality, efficiency and integrity of the MSP’s operations, organizational structure and management functions; (2) seeking to prevent, detect and correct fraud, waste and abuse in the expenditure of public funds; and (3) monitoring policy changes instituted as a result of the MSP’s certification or accreditation by a state or national police accrediting agency pursuant to Section 73 of Chapter 22C of the Massachusetts General Laws.

I. Audits, Investigations and Reviews

A. Paid Details and Travel Time

During its first full year of operation, the Division conducted several reviews of the MSP’s overtime and paid-detail policies, procedures and operations.⁶ First, the Division conducted a comprehensive review of the MSP’s paid-detail policy with particular focus on the “travel time” section of the policy. The travel time section requires all troopers to use vacation leave or personal leave when they work a paid detail that overlaps with a regular work shift. The trooper must use vacation or

⁴ Section 72 of Chapter 22C of the Massachusetts General Laws refers to the Division as “an internal special audit unit.” The Inspector General renamed the Division to avoid confusion with the previously created Internal Special Audit Unit within the Department of Transportation (see M.G.L. c. 6C, § 9).

⁵ Section 72 of Chapter 22C of the Massachusetts General Laws was passed through the enactment of Section 23 of Chapter 154 of the Acts of 2018.

⁶ The MSP’s paid-detail policy recognizes the need for crowd control and security as well as the importance of maintaining safe and efficient traffic flow at roadway work sites and at major sporting and civic events. As such, troopers may work paid details. All paid details are voluntary assignments.

personal leave both for the overlap in the regular work shift and for the travel time to or from the paid detail.

As part of its review, the Division examined troopers' use of travel time to and from paid details at Logan International Airport. This examination revealed that the vast majority of troopers who worked paid details at the airport did not use vacation or personal leave time to account for their travel time. Since the Division concluded its review, the MSP has implemented changes to the travel time section of the paid-detail policy in order to ensure that troopers are properly accounting for travel time to and from a detail.

B. Paid Detail Offices

The Division also reviewed the role of paid detail officers and other troopers who work in the Paid Detail Office ("PDO") of each troop within the Division of Field Services.⁷ Specifically, the Division reviewed their role in the assignment and administration of paid details. This review revealed that, by and large, each PDO performs similar functions and follows the same processes in administering paid details within its respective troop's jurisdictional boundaries. The one notable exception is Troop F, which has unique operational and security responsibilities.⁸

The Division recommended centralizing the PDOs of the troops, with the exception of Troop F, into one administrative PDO at MSP's headquarters. Centralization would save money, more efficiently allocate MSP resources, and provide a more effective platform to administer paid details throughout the department. Furthermore, while troopers who work in the PDOs provide an important service to the MSP, the vast majority of this work is administrative in nature and does not require the training and expertise of a sworn police officer. The Division therefore also recommended, and the MSP is considering, using civilians for a substantial portion of the PDOs so sworn officers can work in the field and perform other appropriate law enforcement functions.

C. Overtime Shifts

After the discovery of overtime abuse in Troop E⁹ and pursuant to its specific statutory mandate to examine and evaluate overtime at the MSP, the Division has initiated a review of overtime shifts in other troops in the Division of Field Services. The overtime abuse that occurred in Troop E, and that led to the prosecution of a number of troopers federally and at the state level, involved highway patrol overtime shifts that also are often available in other MSP troops.

⁷ The Division of Field Services oversees highway safety, assists municipal law enforcement agencies by responding to public safety emergencies or incidents, and provides other patrol resources and special operations.

⁸ Troop F of the MSP is responsible for the policing and security of all Massport properties, including Logan International Airport.

⁹ Troop E of the MSP was responsible for policing the Massachusetts Turnpike. It was disbanded in 2018.

Preliminary findings from this review include similar deficiencies in oversight, accountability and internal controls that led to the abuses of overtime in Troop E. Initial recommendations include closer oversight and management of all shifts by supervisors and command staff, as well as implementation of proper audit trails and internal controls to confirm time and attendance. The MSP has already implemented a host of new policies and procedures to ensure consistent time and attendance of all troopers, such as the activation of automatic vehicle locator technology in all cruisers, stringent and frequent auditing of overtime shifts, and face-to-face contact with supervisors at the start and end of all shifts.

II. The MSP's Efforts to Achieve Certification and Accreditation

The Division can also report that the MSP has made steady, consistent progress in its efforts to achieve certification and accreditation pursuant to Section 72 of Chapter 22C of the Massachusetts General Laws. Since the MSP hired an accreditation manager and submitted an application to the Massachusetts Police Accreditation Commission ("MPAC") in early 2019, the Division has routinely corresponded and met with the MSP's accreditation manager in order to monitor progress. Achieving certification and accreditation will provide MSP employees, both sworn officers and civilians, with improved policies that reflect and codify current operations. It will also address facility improvements and the integration of safety practices that will better protect troopers in the field and individuals in MSP custody. Currently, the MSP has met over 50% of the mandated standards necessary to achieve certification through MPAC. This comprehensive and important work towards certification and ultimately accreditation will continue for the foreseeable future.

III. The MSP's Efforts to Modernize and Centralize

Lastly, over the past year, the MSP has begun to modernize and centralize its rostering, scheduling and time-and-attendance platform through the implementation of a new electronic system, known as Orion, which will replace the current PayStation platform. In 2019, the Division began an ongoing collaboration with the MSP to monitor the rollout of Orion during its trial period in order to mitigate risks of fraud, waste and abuse of public funds throughout the system.

INTERNAL SPECIAL AUDIT UNIT

The Massachusetts Department of Transportation (“MassDOT”) is responsible for managing the Commonwealth’s roadways, public transit systems and Registry of Motor Vehicles (“RMV”). The Internal Special Audit Unit (“ISAU”) monitors the quality, efficiency and integrity of MassDOT’s operating and capital programs. As part of its statutory mandate, the ISAU seeks to prevent, detect and correct fraud, waste and abuse in the expenditure of public and private transportation funds.

INTERNAL SPECIAL AUDIT UNIT

- (1) Prevents, detects and corrects fraud, waste and abuse in the expenditure of public and private transportation funds.**
- (2) Examines and evaluates MassDOT’s operations, including its governance, risk-management practices and internal processes.**

The unit is also responsible for examining and evaluating MassDOT’s operations, including its governance, risk-management practices and internal processes. This also includes the operations of the Massachusetts Bay Transportation Authority (“MBTA”). The ISAU has an additional legislative mandate to review certain MBTA procurements.¹⁰ The ISAU’s enabling statute requires it to publish an annual report each March. Below are highlights from that report.

I. Audits, Investigations and Reviews

A. The MBTA’s Privatization of Its Warehouse Operations

As part of its mandate under Section 196 of Chapter 46 of the Acts of 2015 to evaluate the MBTA’s outsourcing of services, the ISAU conducted a preliminary review of the MBTA’s contract to privatize its warehouse operations. “Warehouse operations” refers to storing, tracking and delivering the parts, equipment and other supplies necessary for maintaining and repairing the MBTA’s buses, trolleys and subway cars.

The ISAU’s preliminary review focused on the MBTA’s contract with its third-party vendor, Management Consulting, Inc. (“Mancon”), Mancon’s compliance with the contract and the MBTA’s oversight of Mancon’s performance. Pursuant to its legislative mandate, the ISAU also reviewed the MBTA’s analysis of the costs to privatize its warehouse operations and its cost to perform this function in-house. The ISAU interviewed MBTA and Mancon employees; observed warehousing processes at the

¹⁰ See Section 196 of Chapter 46 of the Acts of 2015.

MBTA's and Mancon's facilities; and reviewed bidding, contract, financial and performance documentation.

As a result of this review, the ISAU identified opportunities for the MBTA to bring Mancon's performance in line with its contractual obligations and promote a successful partnership. The MBTA could improve its oversight of Mancon's performance and should hold Mancon accountable for its work. The MBTA should enforce all terms of the MBTA-Mancon contract and enforce the penalties for non-compliance. This review also highlighted aspects of Mancon's performance that the MBTA does not formally evaluate, document or pursue corrective actions for. The ISAU recommended that the MBTA consult with legal counsel about amending the MBTA-Mancon contract to include specific language requiring Mancon to correct these operational challenges.

As part of this review, the ISAU also evaluated the cost estimates that the MBTA provided to the Fiscal and Management Control Board when it sought approval to privatize its warehouse operations. First, the MBTA reported to the board that it cost \$12.1 million a year to conduct the warehouse operations in-house. However, the MBTA could not provide the documents or information that it used to reach that conclusion. As a result, the ISAU could not substantiate the validity of that calculation. Nevertheless, the ISAU did identify certain costs that should not have been included: (a) the personnel costs related to 12 stockpersons who were transferred to newly created positions within the MBTA; (b) post-retirement costs; and (b) a \$2million "charge" for mechanics' unproductive time.

Second, the ISAU identified expenses, including consulting services and new hires at the MBTA, that were needed to execute the warehouse contract but that the MBTA did not include in its \$7.1-million estimate to privatize warehouse operations.

At the end of its preliminary review, the ISAU shared its findings with MBTA senior management, including opportunities to improve contract and vendor oversight, enhance vendor performance and accountability, expand MBTA management communication with field employees and promote successful execution of the privatization contract.

B. A Review of the Registry of Mother Vehicles' Merit Rating

In October 2019, ISAU began an in-depth review of the Merit Rating Board ("MRB") in order to provide recommendations to improve the MRB's operations, practices, procedures and internal controls. The review began at the request of the board ("Board") that oversees the MRB.¹¹ The Board also asked the Office to review the MRB's current role and responsibilities, as well as to identify potential risks to or gaps in the MRB's ability to meet its statutory obligations.

As part of this ongoing review, the ISAU performed policy and document reviews; observed the MRB's procedures for document control, citation processing and quality control; and attended Board

¹¹ Confusingly, the statute that created the Merit Rating Board provides that it is governed by a board, which is also named "Merit Rating Board." To avoid confusion, the Office refers to the unit as the "MRB" and its governing board as the "Board."

meetings. The ISAU also reviewed the MRB's statutory obligations, analyzed financial and budget records, and met with MRB staff to understand their roles and daily procedures. The Office has shared preliminary observations and recommendations with the Board and the interim MRB Director. The Office will continue to be actively engaged in this review in calendar year 2020.

C. A Review of the MBTA's Non-Revenue Vehicle Fleet Administration

During 2019, the ISAU collaborated with the MBTA to review and improve the administration of its inventory of passenger vehicles that are assigned to specific employees, assigned to departments or used as pool vehicles (collectively, "non-revenue fleet"). At the time of the ISAU's review, the non-revenue fleet included 558 passenger vehicles ranging from sedans to pickup trucks that MBTA staff use during transit operations.

The ISAU identified opportunities for the MBTA to strengthen its recordkeeping and vehicle assignment process. Within the MBTA's fleet asset management system, the ISAU also found inaccurate and incomplete records, vehicles assigned to employees who no longer work at the MBTA, instances of multiple vehicles assigned to one employee, and vehicles assigned to MBTA contractors.

The ISAU further found the MBTA did not have procedures or guidelines for determining when an employee needs a state vehicle (for instance, which job functions require a vehicle). The MBTA form for requesting a vehicle did have a "justification" section for requesting a domiciled vehicle, but that section typically was left blank or contained skeletal information.

MBTA staff were receptive to the ISAU's concerns and recommendations. The ISAU worked with the MBTA to develop a more robust and detailed vehicle assignment form. The new form requires employees to document the need for a full-time or domicile vehicle and to obtain approval from both their supervisor and the COO.

The MBTA required all staff who currently have domicile privileges (*i.e.*, who are allowed to drive their vehicles to and from work) to complete the new vehicle assignment form. As of the end of 2019, the superintendent continued to collect the completed forms and to update the fleet's electronic records.

This initial review highlighted the need to have accurate fleet records and increased accountability, including a need for the MBTA to have guidelines for assigning vehicles to employees. The ISAU will continue its review in 2020.

II. Fraud Prevention Training

Related to the ISAU's mission to prevent fraud, waste and abuse of transportation funds, the ISAU developed and delivered fraud prevention training at the request of MassDOT's Highway Division. In March 2019, the ISAU team led two training sessions for MassDOT Highway field staff who oversee

highway maintenance and construction contracts. The sessions outlined common fraud schemes, fraud prevention techniques and red flags for vendor fraud.

III. Hotlines

The ISAU maintains a hotline for members of the public to confidentially report suspected fraud, waste or abuse in the expenditure of transportation funds and in public transportation programs. The hotline is available on the Office's, MassDOT's and the MBTA's websites. The ISAU also maintains an employee hotline on MassDOT's and the MBTA's intranets. The ISAU evaluates each complaint received to determine whether it falls within its jurisdiction and whether it merits action. Some complaints lead to extensive investigations, some are referred to other agencies and others are closed if a preliminary inquiry fails to substantiate the allegations. During 2019, the ISAU received 126 complaints from private citizens and public employees.

The ISAU also monitors the RMV's disability parking placard abuse hotline and receives reports of suspected placard abuse from the public. The RMV's Medical Affairs Bureau processes this information for further investigation. In 2019, the ISAU received 81 reports of alleged placard abuse.

LEGAL DIVISION

The Legal Division provides essential legal advice to the Office and manages legal strategy in all Office litigation. Attorneys in the Legal Division represent the Office in state and federal court, draft and review legislation, teach procurement law, and provide guidance on public procurement matters to state and local officials. They also assist the Office's investigatory divisions by taking testimony; analyzing evidence; conducting legal research; coordinating responses to and enforcing summonses; and liaising with state, municipal and private entities on legal issues that may arise during an investigation or review. The Legal Division plays a key role in compliance and internal controls within the Office, including on-boarding new employees and regularly providing in-house training on topics such as confidentiality, state ethics requirements and conflicts of interest.

LEGAL

- (1) Provides essential legal advice to the Office and manages legal strategy in all Office litigation.**
- (2) Represents the Office in state and federal court, drafts and reviews legislation, teaches procurement law, and provides guidance on public procurement matters to state and local officials.**
- (3) Investigates and pursues civil actions seeking potential monetary recovery.**

I. Civil Recovery Unit

In 2018, the Office created the Civil Recovery Unit ("CRU") within the Legal Division. The CRU formally commenced operations in January 2019, following an extensive search for its Lead Counsel that began in July 2018.

The CRU is charged with investigating and pursuing civil actions seeking potential monetary recoveries, in coordination with the Office of the Attorney General. The attorneys in the CRU investigate and develop matters for potential civil recovery pursuant to M.G.L. c. 12A, § 11. These attorneys work closely with the other investigative units within the Office, frequently partnering on investigations that may be appropriate for civil recovery. The CRU works closely with the Massachusetts Attorney General's Office when developing matters for litigation or preparing for settlement.

A. Outreach

During its first full year in operation, the CRU focused on building relationships with the Attorney General's Office, other state agencies and local governments. Through small group meetings and presentations to larger audiences, these efforts have been designed to raise awareness of the CRU and its mission, and to educate constituent audiences about civil recovery and ways that the CRU can

assist them. In particular, members of the CRU have presented at the Massachusetts Municipal Association's Fall Conference and led classes for the Office's MCPPO program on fraud prevention and detection. CRU staff have also participated in the creation of the Office's online classes.

B. Investigations

The CRU's initial investigations have a wide-ranging focus that touch all corners of the Commonwealth. They have included fraud and other unlawful conduct implicating the Massachusetts False Claims Act and the Consumer Protection Law. These investigations have generally been undertaken in collaboration with other divisions within the Office and in consultation with the Attorney General's Office. The CRU's initial investigations touch on areas such as transportation, local services and public safety.

POLICY AND GOVERNMENT DIVISION

The Policy and Government Division (“Division”) oversees the Office’s policy, healthcare and legislative initiatives. The Division also reviews programs and practices in state and local agencies to identify system-wide vulnerabilities and opportunities for improvement.

POLICY AND GOVERNMENT DIVISION

- (1) Oversees the Office's policy, healthcare and legislative initiatives.**
- (2) Reviews programs and practices in state and local agencies.**
- (3) Identifies system-wide vulnerabilities and opportunities for improvement.**

I. Healthcare Reviews

Each fiscal year, the state budget includes language requiring the Office to oversee review the Health Safety Net (“HSN”) and Medicaid programs.¹² This may include reviewing eligibility requirements, utilization, claims administration and compliance with federal mandates. The budget language requires the Office to produce a [report](#) each March. Below are highlights from the Office’s reviews.

A. Personal Care Attendants

MassHealth is the state agency that oversees the HSN and Medicaid programs. In 2019, the Office examined aspects of MassHealth’s personal care attendant (“PCA”) program. Following the Office’s reviews of three parts of the PCA program, it provided MassHealth with recommendations to improve its program integrity in each part reviewed.

The purpose of the PCA program is to help MassHealth members with permanent or chronic disabilities maintain their independence, reside in the community and manage their own personal care. The Office requested data from MassHealth and the three fiscal intermediaries (“FIs”) that assist in the administration of the program. The Office first alerted MassHealth as to the importance of obtaining the names of the PCAs and linking those names to the MassHealth member(s) for whom the PCA provides services. MassHealth does not currently know the names of any of the PCAs and, as a result, it cannot conduct adequate program integrity for the PCA program. Although MassHealth’s contracts require the

¹² The federal government created the national Medicaid program in 1965 to provide medical assistance to low-income individuals, particularly children, through a shared state-federal commitment. The Massachusetts legislature created the Health Safety Net to pay for medically necessary services that acute care hospitals and community health centers provide to eligible low-income uninsured and underinsured patients.

FIs to conduct program integrity, MassHealth is unable to sample the FIs' work or provide meaningful oversight of the FIs' efforts. For example, MassHealth cannot identify PCAs who may be submitting improper or false bills. Nor can MassHealth verify if a PCA is a family member of the person for whom they are caring, which would violate MassHealth's regulations.¹³ Similarly, MassHealth is unable to determine whether a PCA is working more than 50 hours per week, which also would violate MassHealth's regulations.¹⁴ In short, without the PCA names, MassHealth is unable to verify if the PCA program is working within its regulatory framework.

The Office next notified MassHealth that the Office had reviewed de-identified criminal offender record information ("CORI") and sex offender registry information for the people working as PCAs during the first quarter of calendar year 2018 and the third quarter of calendar year 2019. Both sets of background checks revealed that a substantial number of PCAs have had involvement in the criminal justice system, including for violent crimes and financial crimes.¹⁵ Currently, MassHealth does not conduct background checks on PCAs.

The Office recognizes that the PCA program is unique among MassHealth programs as it is a self-determination program, allowing members to select and oversee their PCAs. However, the lack of a background check is inconsistent with EOHHS regulations that require a CORI check for its employees, or employees of its constituent agencies or vendors, who will have unsupervised contact with EOHHS clients. It is also inconsistent with MassHealth's requirement that other programs conduct CORI checks on employees, contractors and subcontractors before having potentially unsupervised contact with MassHealth members. It is also inconsistent with a state law requiring CORI checks by agencies that supply or refer personal care attendants to people with disabilities and the elderly.¹⁶ The Office is actively working with the PCA program on this issue.

Finally, the Office reviewed the amount of money that MassHealth is paying PCAs to travel from one member's home to another member's home ("travel claims"). The Office shared a number of observations and recommendations with MassHealth regarding its payment of travel claims. For example, the Office identified inconsistencies in the data caused by incorrect zip codes, mistakes in formatting data and timekeeping practices that affected the accuracy of the travel claims. The Office also observed that MassHealth is reimbursing PCAs for traveling significant distances to care for members. The Office further noted that each of the three entities involved with travel claims – FIs, MassHealth's travel claim vendor Annkissam and MassHealth – have different sets of information relating to travel claims. No one entity has all of the relevant information necessary to evaluate and conduct program integrity on travel claims.

¹³ 130 CMR 422.404(A)(1)(d)(1).

¹⁴ 130 CMR 422.418(A)(1).

¹⁵ The information used was de-identified.

¹⁶ M.G.L. c. 6, § 172C.

In response to the Office's findings, MassHealth and its vendor have taken steps to identify inaccurate travel claims and to recoup improperly paid claims. MassHealth also indicated that it will conduct an audit of PCA claims using all of the available data so that it can evaluate travel claim processing.

B. Adult Day Health

Adult day health is a community-based service that provides nursing care, supervision and health-related support services to eligible members in a structured group setting. After reviewing claims for approximately 100 adult day health providers, the Office found that certain providers (1) billed for multiple days in a single claim without identifying the specific days the member attended the program; (2) billed too many 15-minute units in violation of Medicaid regulations and resulting in payments that exceeded the allowable daily rate; (3) included the same diagnosis for virtually all members attending a program; and (4) submitted claims for complex care for members whose primary diagnoses did not appear to support that level of billing. These issues are all indicators of potential fraud, waste or abuse of the adult day health program.

The Office recommended that MassHealth consider requiring providers to bill for adult day health services one day at a time, which would allow MassHealth to strengthen its program integrity activities by determining if a person received overlapping services on the same day as attending an adult day health program or if the person was actually present at the program on the day billed. The Office also recommended that MassHealth evaluate how it processes 15-minute-unit claims to prevent providers from improperly using this procedure code rather than the daily procedure code. Finally, the Office recommended that MassHealth review claims to determine if providers are accurately presenting member diagnoses and the need for complex care.

In response to the Office's recommendations, MassHealth:

- Finalized a policy that requires adult day health providers to have documentation to validate the dates when services were provided, even if the adult day health provider bills for multiple dates of service in one claim;
- Created a process that prevents providers from being able to submit and receive payment for claims that exceed the six-hour daily maximum; and
- Clarified clinical eligibility requirements for adult day health members. MassHealth also implemented prior authorization requirements for the provision of adult day health services. This means that providers now submit clinical documentation establishing a member's eligibility for adult day health services.

In addition, MassHealth began identifying all adult day health providers who submitted more than 50 claims with a 40% or higher denial rate, and providing training to those providers and conducting audits as needed. Also, MassHealth asked the Centers for Medicare and Medicaid Services

for a temporary moratorium on the enrollment of new adult day health providers effective March 1, 2020. This temporary moratorium would allow MassHealth to address program integrity concerns and to focus on training and educating current adult day health providers.

C. Adult Foster Care

Adult foster care allows eligible members to live with a caregiver who provides assistance with activities of daily living, instrumental activities of daily living and other personal care. The Office reviewed the claim histories for a large sample of providers from fiscal year 2018. As a result of that review, the Office identified providers that were submitting claims with the same diagnosis for many, if not most, members, as well as providers that were submitting claims for complex care for members whose primary diagnoses did not appear to warrant that level of care.

The Office recommended that MassHealth improve its current program integrity efforts. The Office also recommended that MassHealth improve its review of adult foster care claims for fraud, waste and abuse to determine if providers are engaging in questionable diagnosis practices, improper billing for complex care, or other billing activity that raises questions about the provision of adult foster care services. Finally, the Office recommended that MassHealth consider setting guidelines for the rate of compensation for the caregivers.

In response to the Office's recommendations, MassHealth has:

- Contracted with a new vendor that will oversee the providers and assist with and enhance MassHealth's program integrity efforts;
- Acknowledged that the adult foster care claims that the Office identified represented "impermissible billing by AFC providers" and put edits in place in its claim adjudication system to deny payment of claims for the following types of billing situations:
 - Two or more adult foster care claims for one member on the same date of service; and
 - Two adult foster care claims for one member, one for a regular caregiver and one for an alternative caregiver, with different levels of service on the same date of service.
- Revised its prior authorization requirements to ensure that members are receiving the appropriate level of service to meet their clinical needs;
- Conducted a review of adult foster care cost reports to determine the rate that caregivers should be paid and reiterated the standard rate adult foster care providers must pay caregivers; and
- Created an algorithm to identify all adult foster care providers that bill for Level II care for 80% or more of their members.

D. Dental Care

The Medicaid and HSN programs pay for dental care for some MassHealth members and HSN users. The Office reviewed certain aspects of the dental program over several years.

The Office determined that MassHealth does not audit DentaQuest, its dental program vendor, to ensure that it is processing claims accurately and complying with the terms of its contract. Instead, MassHealth allows the vendor to “self audit.” The Office also determined that some paid dental claims in MassHealth’s data warehouse did not contain tooth numbers or letters, which hampers MassHealth’s ability to properly oversee its vendor’s claim adjudication. The Office further identified that dental providers were improperly billing certain oral evaluations on children under the age of three that occur in conjunction with a discussion with the child’s primary caregiver.

The Office recommended that MassHealth conduct its own audits of dental claims instead of relying on its vendor to self-audit. At a minimum, MassHealth must require the vendor to provide a list of the claims that it includes in its self-audit so that MassHealth can verify the results. The Office also recommended that MassHealth work to address the miscommunication issue between its claim adjudication system and its data warehouse so that it can conduct robust analytics on its dental claims. Additionally, the Office recommended that MassHealth seek to recoup from providers who improperly billed a procedure code that paid them more than they should have received for evaluations of children under three. Finally, the Office recommended that MassHealth analyze providers who billed this procedure code to determine whether the billing was intentional rather than accidental.

In response to the Office’s recommendations, MassHealth has:

- Requested that DentaQuest, the vendor that manages the dental program, submit all claims included in its audit reports to MassHealth. MassHealth then uses those claims to validate DentaQuest’s claim processing;
- Increased its sampling of dental claims to validate that DentaQuest is accurately editing and processing claims according to MassHealth regulations;
- Instructed DentaQuest to create an automatic edit in the claim processing system to prevent improper billing for oral evaluations for children younger than three years old; and
- Validated DentaQuest’s claim processing to ensure that it complies with the benefit guidelines for MassHealth members.

E. Optometry

MassHealth pays for its members to receive optometry care, including the diagnosis, prevention, correction, management and treatment of optical issues. MassHealth allows optometrists to bill for traveling to provide services to members living in long-term care facilities (such as nursing

homes). MassHealth permits optometrists to bill for each member they treat in a care facility, even when they treat more than one member in a single visit.

The Office reviewed all travel claims that optometrists billed for services provided from February 2007 to the end of December 2017. During this time, MassHealth paid 55 providers approximately \$1.5 million for 177,108 travel claims. The Office identified one optometrist who billed for travel substantially more frequently than his peers did, thereby being paid substantially more for travel claims than his peers. In addition, the same optometrist used the same diagnosis for 75% of his travel claims, which was an anomaly compared to his peers.

The Office recommended that MassHealth review service providers' billing patterns as part of its program integrity activities. This includes analyzing the number of travel claims that servicing providers submit as well as examining questionable patterns in the use of diagnosis codes. The Office also recommended that the MassHealth optometry program consult with other MassHealth programs that serve members outside of the office setting and consider a standard payment methodology for travel across programs.¹⁷ As an alternative, the Office recommended that MassHealth consider (a) returning the optometry program to the pre-2007 practice of billing one travel code per location per day; and (b) adopting a reimbursement rate that would adequately compensate providers for the actual cost of traveling to provide services.

In response to the Office's recommendations, MassHealth has:

- Consulted with other MassHealth programs that serve members outside of the office setting to evaluate creating a standard payment methodology for travel across programs. However, MassHealth determined that because of the unique qualities of each program and their providers, it would maintain the individual payment methodologies; and
- Analyzed all optometrists' utilization of travel codes. It found that, except for the one optometrist the Office identified, optometrists were correctly billing for travel.

II. Public Design and Construction

Since its inception, the Office has helped develop policies and procedures related to the Commonwealth's public design and construction laws. In 2019, the Office worked with the Department of Capital Asset Management and Maintenance ("DCAMM"), the Massachusetts Department of Transportation, the Massachusetts Port Authority, the Massachusetts School Building Authority, the Massachusetts Attorney General's Office and other state and local entities to establish best practices in public construction.

¹⁷ Dental providers and podiatrists also treat members outside of their offices. Dental providers may bill for travel once per facility per day; podiatrists do not appear to receive any reimbursement for travel.

A. Alternative Construction

Pursuant to M.G.L. c. 149A, the Office reviews applications to use alternative delivery methods, including the construction management at-risk (“CM at-risk”) and design-build methods.¹⁸ In addition, before certain state agencies and authorities may use alternative delivery methods on construction projects, the legislature has charged the Office with reviewing and approving the procedures for utilizing those delivery methods. Consequently, the Office reviews and approves certain procedures for DCAMM, the Massachusetts Port Authority, the Massachusetts Department of Transportation, the Massachusetts Bay Transportation Authority, the Massachusetts Water Resources Authority, the Massachusetts State College Building Authority and the University of Massachusetts Building Authority.

In 2019, the Office received 24 applications to use the CM at-risk delivery method, totaling over \$2.4 billion in estimated project costs. The projects included five public high schools, eight public elementary and middle schools, two public charter schools, two affordable housing developments, two city hall renovations, a convention center, a department of public works facility, a library, a parking garage and a police station. Applicants included the cities of Beverly, Boston, Cambridge, Lowell, Springfield and Waltham, as well as and the towns of Arlington, Littleton, Marblehead, Sharon, Tewksbury, Wellesley, Westborough, Westport and Weymouth. Additional applicants included the Acton-Boxborough Regional School District, Brookline Housing Authority, Cambridge Housing Authority, Excel Academy Charter School, Seven Hills Public Charter School and the Massachusetts Convention Center Authority.

B. Owner's Project Manager Review Panel

Each month, a staff member from the Office represents the Office at the Massachusetts School Building Authority’s (“MSBA”) Owner’s Project Manager Review Panel (“Review Panel”). When a school district receives state funding to build a new school, it must use an owner’s project manager (“OPM”) to oversee the building project. The Review Panel, led by the MSBA, reviews each school district’s selection of an OPM, including the evaluation process the school district used.

As a member of the Review Panel, Office staff reviews each district’s process and evaluation of its OPM applicants. This review entails examining both the school district’s needs and the OPM’s qualifications, including the OPM’s project experience, managerial experience, backlog of other ongoing work and financial viability. Staff then participates in the Review Panel’s meeting, listening to school district presentations. After considering the presentations and reviewing the materials, the Review Panel may either agree with the school district’s selection of an OPM or recommend further review and consideration.

¹⁸ “Alternative delivery method” means a delivery method other than the traditional design-bid-build sequential method of construction required in M.G.L. c. 149 (building construction projects) and M.G.L. c. 30, § 39M (public works construction projects).

III. Real Estate Transactions

Each year, the Office reviews a variety of public real property transactions, including dispositions, acquisitions and long-term leases, to ensure that the public's interests are protected. In addition, the legislature frequently mandates that the Office review and approve independent appraisals of real property that the Commonwealth, counties and municipalities propose to convey or acquire. The Office's appraisal reviewers evaluate whether the analyses, opinions and conclusions in the appraisal are appropriate and reasonable. The Office provides a report on each appraisal of Commonwealth real property to the Commissioner of DCAMM 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 generally recommends that all real property appraisal reviews conducted at the direction of the legislature follow the Uniform Standards of Professional Appraisal Practice.¹⁹

Below are examples of transactions that the Office reviewed in 2019.

A. Edward J. Sullivan Courthouse in the City of Cambridge

Chapter 304 of the Acts of 2008 ("Chapter 304") authorized the sale of the Edward J. Sullivan Courthouse in Cambridge. In 2011, DCAMM obtained an appraisal, which the Office reviewed and approved. To convey the property, DCAMM conducted a competitive request for proposals. As a result of that process, DCAMM will sell the courthouse without warranty to LMP GP Holding LLC, which submitted the highest offer. The Office found that the terms and conditions of the sale, as reflected in DCAMM's release deed, were consistent with Chapter 304. DCAMM will sell the property for \$33,000,000. The Office determined that the opinions of the value of the land were adequately supported and therefore issued a letter approving the methodology and opinions of value.

B. Lynn Waterfront Redevelopment Project

In October 2019, the Office reviewed a proposed land disposition agreement ("LDA") and 27 associated exhibits in connection with a waterfront redevelopment project in Lynn. The developer plans to construct two apartment buildings, ground floor amenities, tenant parking, a public harbor walk, a linear park and a vehicle access road. The developer also plans to repair deteriorating coastal engineering structures along the Lynn waterfront.

The legislature authorized DCAMM, in consultation with the Department of Conservation and Recreation ("DCR"), to release an easement to the developer. DCAMM conducted an appraisal, which showed the project would result in a significant net financial benefit to the Commonwealth. DCAMM therefore did not require the developer to pay any additional money for the easement. According to the LDA and exhibits, moreover, DCAMM and DCR will have significant involvement in the design and

¹⁹ The Uniform Standards of Professional Appraisal Practice, promulgated by The Appraisal Foundation, sets out voluntary industry standards for licensed appraisers of property rights.

construction of the public elements of the project and will provide appropriate oversight to protect the Commonwealth's interests. The Office therefore determined that the LDA was consistent with the terms of and conditions of the legislation.

C. Boston Waterfront Development

Pursuant to Chapter 262 of the Acts of 2014, the Office reviewed an appraisal of two abutting parcels in the Brighton section of Boston to be conveyed to the Architectural Heritage Foundation ("AHF"). One parcel will be leased to AHF for preservation and development of the historic Speedway Administration Building and its grounds ("lease lot"). The second parcel will be sold to AHF to build, possibly with an affiliate, a new multi-story building ("sale lot"). AHF plans to develop the sale lot and use those proceeds, along with other funds, to renovate the lease lot. The appraiser determined that the rental value of the lease lot after renovations is not sufficient to offset the costs of renovation. The appraiser therefore concluded the rental value is zero. The appraiser developed a market valuation of the sale lot as a stand-alone parcel and as if combined with another parcel. The Office approved the methodologies and opinions of value presented in the appraisal.

D. Former Camp in Taunton

In 1953, pursuant to legislation, the Commonwealth conveyed a parcel of land to the United American Veterans of the United States of America, Inc. ("AMV") to use as a recreational camp for children from low-income and underserved families. The original deed contained a use restriction and a reverter clause, which required that the land be used as a recreational camp for children from low-income and underserved families and that if it ceased to be used as such it would revert to the Commonwealth.

Since the original conveyance to AMV, the property has been sold several times. One owner built a house next to the parcel and used the subject parcel for access. Moreover, the deeds for the sales after the original conveyance did not include a use restriction or reverter clause.

Chapter 188 of the Acts of 2018 ("Chapter 188") authorized a release from the use restriction and reverter clause to clear the title; this would allow the current owner to sell the parcel. In accordance with Chapter 188, the Office reviewed the appraisal and found that the value opinion of the subject parcel was adequately supported. The Office therefore approved the methodology.

E. Easements

Pursuant to legislation, the Office reviewed appraisals of permanent and temporary easements in Grafton, Lanesborough, Medford, Sutton and Boston. The easements are across or under larger parcels and were granted for various purposes, including utility installations, private developments and a bridge project. In the separate reviews of each easement, the Office found that DCAMM's appraisers used a comparable sales method of valuation to conduct the appraisals and that DCAMM appropriately

analyzed the property rights associated with the grant of the easements. The Office therefore approved the appraisal methodologies and opinions of value.

F. Springfield Technical Community College Assistance Corporation

The Springfield Technical Community College Assistance Corporation (“Corporation”) must submit every contract requiring an annual expenditure of more than \$100,000 to the Office for review and comment. In 2019, the Corporation submitted a proposed amendment to its management agreement for review. The Corporation’s management agreement, which was set to expire in 2019, contained an option to extend the contract for two years (“original option”). The Corporation proposed to exercise that option and to add a second option to extend the contract for an additional two years (“new option”).

The Office did not object to the Corporation’s decision to exercise the original option to extend the management agreement. However, the Office recommended that the Corporation conduct a competitive procurement for the property management contract before the end of the original option. The Office explained that other vendors did not have the opportunity to consider the new option when they bid (or decided whether to bid) on the contract in 2014. Furthermore, because management costs change over time, the Corporation may save money by putting the contract out to bid again. The Office also recommended that the Corporation protect its interests and ensure that the property manager documents important information and maintains adequate records in the event that the Corporation hires a new property manager in the future.

IV. Legislative Initiatives

Since it was established in 1981, the Office has reviewed and commented on proposed legislation during each legislative session. In addition, the Office regularly provides feedback to individual legislators who are developing both legislation specific to the districts they represent and legislation that affects the general operations of state and local government. The Office also responds to requests from the Governor’s Office to review legislation that the legislature has passed and that is awaiting the Governor’s signature.

The Office continued to provide these important services throughout 2019. For instance, the Office reviewed and commented on more than 100 pieces of legislation for the 2019-2020 legislative session. In 2019, the Inspector General and his staff also provided testimony and guidance to legislative committees on issues related to training members of public boards and commissions, real estate transactions, fraud controls, employee leave time policies, post-retirement work policies and the procurement of public supplies and services. In all cases, the Office stressed the importance of transparency in government and the need for safeguards to ensure the appropriate oversight of taxpayer dollars.

Below are examples of legislation that the Office commented on in 2019.

A. Chapter 30B Threshold Increases

In 2019, the Inspector General opposed legislation that would increase the dollar threshold in Chapter 30B for acquiring supplies and services. Specifically, the legislation would allow jurisdictions to seek written quotations for purchases of up to \$100,000. Currently, the threshold for written quotations is \$50,000, after which jurisdictions must use more competitive and transparent procedures. Proponents of the threshold increase contended that the procedures in Chapter 30B are burdensome and time consuming. The Office strongly disagreed; Chapter 30B ensures jurisdictions receive the supplies and services they need at a reasonable price and in a fair and transparent manner. The Office played a key role in the adoption of Chapter 30B; the dollar thresholds and procedures promote fair and open competition, thereby protecting public funds and ensuring that all companies have a fair opportunity to do business with the government. As of the date of this report, this bill remains in the Joint Committee on Education.

B. Purchasing Art and Artistic Services

The Office opposed legislation that would exempt cities, towns and other jurisdictions from following Chapter 30B's transparent and competitive procedures when purchasing art and a wide range of services. Proponents of the exemption have stated that art is subjective and therefore that jurisdictions should not be required to follow procurement laws. The Office opposed the legislation because the procedures in Chapter 30B are not burdensome and give jurisdictions the flexibility to choose art based on subjective criteria. In addition, the language in the bills was so broad that the exemption would apply to a wide range of supplies and services that are not subjective. For example, a local jurisdiction could use the exemption to design its website, to create and print brochures, to document the jurisdiction's history, or to operate its social media platforms. It is the opinion of the Office that these services require a fair, open and competitive process. As of the date of this report, these bills remain in the Joint Committee on Tourism, Arts and Cultural Development.

C. Public Employees and Post-Retirement Earnings

The Commonwealth permits public employees who retire ("public retirees") to work in the public sector after they retire, subject to certain requirements, including limits on earnings and number of hours worked. The limits are spelled out in Section 91 of Chapter 32 of the Massachusetts General Laws ("Chapter 32").

As part of its mission to prevent and detect the misuse of public money, the Office supported measures to strengthen the enforcement mechanisms in Chapter 32. Currently, public retirees who return to work in the public sector do not have to report their earnings and the hours worked annually

to their local retirement boards. Without this basic information, retirement boards cannot enforce Chapter 32 or recover overearnings.

The Office therefore supported legislation that would require public retirees to report the number of hours worked and their earnings to both their current employer and their retirement board. This bill received a study order from the Joint Committee on Public Service.

D. Design and Construction of Public Housing

The Office submitted written testimony on legislation that would eliminate long-standing statutory safeguards for the procurement, design and construction of public housing. The Office cautioned that these proposals may lead to wasteful spending and risky transactions involving public funding.

One proposal would permit a local housing authority to transfer surplus land to a private developer. Subsequently, the housing authority and private development partner would be exempt from following public procurement, design and construction laws for a redevelopment project. The public procurement, design and construction laws are in place to ensure projects are completed fairly, accountably and in a cost-effective manner.

Under another proposal, local housing authorities would be permitted to borrow funds and retain proceeds from any sale of property, rather than returning the proceeds to the state or municipality that donated the land. Much of the land local housing authorities control was donated by a municipality specifically for affordable housing or was purchased with funds from the federal or state government. Therefore, sale proceeds should not necessarily be given to the local housing authority.

The Joint Committee on Housing reported these bills out favorably. As of the date of this report, these pieces of legislation remain in both the Senate and House Committees on Ways and Means.

E. Sick Leave Payouts for State Employees

The Office recommended that the Joint Committee on Public Service advance legislation to reduce the Commonwealth's liability for state employees' unused sick leave upon retirement.

Most state agencies and authorities pay employees 20% of the value of their sick leave when they retire. While the vast majority of public employees use their sick leave properly, this payout-upon-retirement creates an incentive not to report the use of sick time in order to increase the retirement payout. Furthermore, the Office found that some high-ranking public employees received six-figure payouts for their leave time upon retirement. For example, in 2018, a professor at a public university received more than \$185,000 for unused leave time. In another case, the executive director of a public charter school received nearly \$100,000 upon retirement, for allegedly unused sick and vacation time. Additionally, the Commonwealth carries a substantial liability for unused sick leave. The Comptroller estimates that the state's current liability for unused sick and vacation leave exceeds \$560 million.

The Office recognizes that sick leave is an important employment benefit and that employees must be able to accrue sick leave, including in case of a catastrophic medical event. Sick leave is not, however, a retirement benefit. In addition, the Commonwealth could reduce its financial liability for payouts without limiting a state employee's ability to accrue sick leave.

The Office highly recommends that the laws governing sick leave be amended to permit a payout of 20% of a finite number of hours, such as 1,000 hours, upon retirement. Therefore, an employee could still accrue and use more than 1,000 hours for sick leave purposes. All of the legislative proposals to amend the statute governing sick leave received a study order from the Joint Committee on Public Service.

V. Proposed Legislation: 2019-2020 Session

Chapter 30 of the Massachusetts General Laws permits the Office to file legislation in the November of even years for the upcoming legislative session. In November 2018, the Office filed the following bills for the 2019-2020 legislative session.

A. House 8, An Act Relative to Higher Education Boards and Trustees

This proposal would require every member of a board of trustees for a public institution of higher education in Massachusetts to participate in training from the Department of Higher Education on such issues as fiduciary responsibilities, the open meeting law, conducting public procurements and state ethics requirements. The proposal also states that membership on a board of trustees would terminate if a member failed to complete the required training.

House 8 is an important step towards ensuring that board members understand the full extent of their roles and have the tools to oversee public institutions of higher education. This will help to protect universities and colleges from fraud, waste and abuse and will also assist in ensuring accountability, transparency and reliability in a system that serves to educate our children.

House 8 was included in a broad higher education stability bill signed by the Governor, [Chapter 113 of the Acts of 2019](#), in November 2019. Since passage of the legislation, the Office has been working with the Board of Higher Education and the other agencies named in the legislation to develop the training, including both in-person and online options.

B. [House 9](#), An Act Relative to Chapter 12A

House 9 would amend the Office's enabling statute in order to increase the Office's ability to prevent and detect fraud, waste and abuse. Modeled after the federal Inspector General Empowerment Act of 2016, Pub. L. No. 114-317, 130 Stat. 1595 (2016), the proposal clarifies that the Office has access to all records of a public body unless the General Court expressly limits that access.

The proposal would also allow the Office to refer a potential criminal matter to a district attorney in the same manner that it refers cases to the United States Attorney and the Attorney General. Further, the proposal would allow a member or designee of the Inspector General Council to attend a private session where testimony is given under oath, at the request of the Inspector General, but it removes the attendance requirement. The role of the Inspector General Council otherwise would remain the same, including approving summonses to take testimony under oath. Finally, the proposal would extend whistleblower protections to private employees. Any person who violates these whistleblower protections would be subject to a fine and may be liable for damages.

The Inspector General Council voted unanimously to support House 9. The Inspector General testified in favor of the bill before the Joint Committee on State Administration and Regulatory Oversight on April 1, 2019. The Committee reported this bill out favorably and referred it to the House Committee on Ways and Means. As of the date of this report, it is in the House Committee on Ways and Means.

C. [House 10](#), An Act Relative to Chapter 30B

House 10 would increase the fine for causing someone or conspiring with someone to solicit or award a contract in violation of the Uniform Procurement Act, M.G.L. c. 30B (“Chapter 30B”). Based on the Office’s investigations and reviews, those who conspire to violate Chapter 30B can receive hundreds of thousands of dollars as a result of their misconduct while depriving the municipality of the appropriate goods or services. Consequently, the current fine – \$2,000 – is an insufficient deterrent to violating Chapter 30B. Raising the fine to \$10,000 – as the Office proposes – would have a far greater deterrent effect. This proposal also would update Chapter 30B to include the correct statutory references to other recently amended statutes. The bill would also strike a section of Chapter 30B that is duplicative.

The Inspector General testified in favor of House 10 before the Joint Committee on State Administration and Regulatory Oversight on April 1, 2019. The Committee reported this bill out favorably and referred it to the House Committee on Ways and Means. As of the date of this report, it is in the House Committee on Ways and Means.

D. [House 11](#), An Act Revising Chapter 30B

House 11 would augment certain sections of Chapter 30B to promote best practices, fair competition and transparency. Under the proposed revisions, awarding authorities would be able to use requests for proposals for procurements in the \$10,000 to \$50,000 range. The proposal also clarifies that an awarding authority cannot allow a vendor to modify quotations for goods and services after they are received. Further, awarding authorities that do not have written procedures for the disposal of surplus supplies would be required to use sound business practices to dispose of surplus supplies valued at less than \$10,000. The proposal also would require contractors to notify the Office when they have

credible evidence of criminal conduct, civil violations or overpayments. Finally, the Office would be permitted to promulgate regulations related to the interpretation and enforcement of Chapter 30B.

House 11 would strengthen Chapter 30B's provisions and provide local jurisdictions greater guidance and flexibility in selecting which procurement method to use without sacrificing the principles of good governance and accountability. The Inspector General testified in favor of House 11 before the Joint Committee on State Administration and Regulatory Oversight on April 1, 2019. The Committee reported this bill out favorably and referred it to the House Committee on Ways and Means. As of the date of this report, it is in the House Committee on Ways and Means.

REGULATORY AND COMPLIANCE DIVISION

The Office's Regulatory and Compliance Division ("Division") provides extensive educational and technical assistance to state and local government officials regarding Massachusetts' public procurement laws, fraud awareness and public governance. Among other activities, the Division operates the Office's training programs; publishes educational materials; and offers a technical assistance hotline to respond to inquiries and complaints about public procurement, fraud prevention and good governance. The Division also interprets and formulates policies for the Uniform Procurement Act, M.G.L. c. 30B ("Chapter 30B"), which governs the purchase and disposal of supplies, services, equipment and real property by cities, towns and other governmental bodies.

REGULATORY AND COMPLIANCE DIVISION

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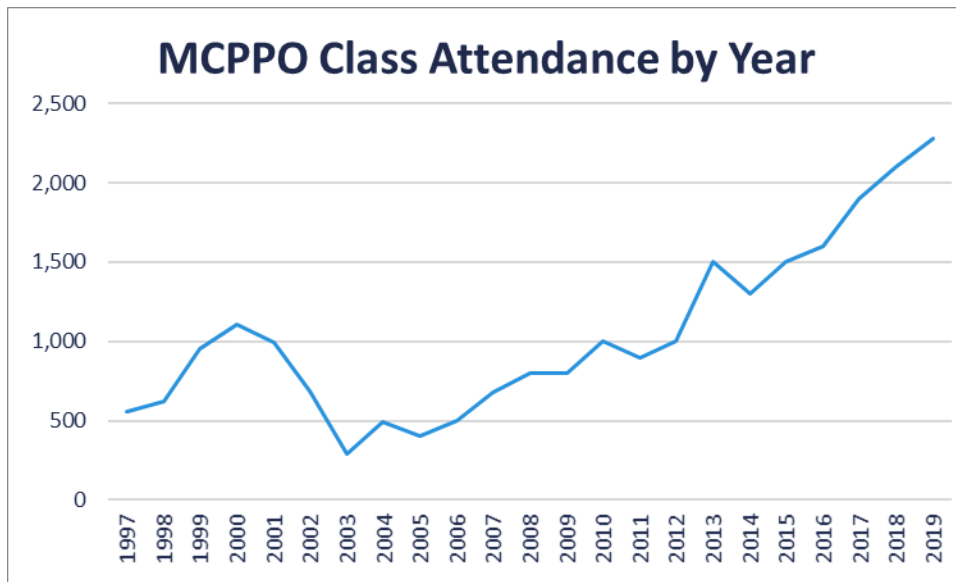
I. Training and Professional Development

The Office established the Massachusetts Certified Public Purchasing Official ("MCPPO") training program 23 years ago. The Office created the training program to promote excellence in public procurement by ensuring that public purchasing officials have the tools necessary to operate effectively and in accordance with procurement laws. Since then, the MCPPO program has expanded to include a broad range of classes on government, including teaching on subjects such as internal controls, cybersecurity, board governance, contract administration and fraud prevention.

To reach the widest audience possible, the Office offers classes online, through videoconferencing and in classrooms across the Commonwealth. Further, recognizing that individuals have different training needs and budgets, the Office's trainings range from short, half-hour videos to a nine-day certification program. Most recently, as discussed below, the Office launched a nine-week online class that allows students to learn at their own pace with each weekly lesson taking about two hours to complete.

Since 1997, more than 25,000 participants have attended MCPPO classes and outside speaking engagements. In 2019 alone, the Office provided training to 2,283 students.

Figure 5: MCPPO Class Attendance by Year



In 2019, the Division held 96 classes, including 17 videoconference classes (where the Office simulcasts classes to locations across the Commonwealth). The Division also participated in 27 outside speaking engagements. Between the classes and speaking engagements, the Division provided training to 3,209 participants across the Commonwealth. The training classes included three classes required for an MCPPO designation: (1) *Public Contracting Overview*, an introductory class that provides an overview of Massachusetts' procurement laws; (2) *Supplies and Services Contracting*, a more in-depth review of Chapter 30B; and (3) *Design and Construction Contracting*, providing in-depth instruction on the procurement laws governing public design and construction in Massachusetts.

Additionally, the Division offered two *Story of a School Building* classes in collaboration with the Massachusetts School Building Authority ("MSBA"). This one-day class is typically offered at a recently renovated or constructed public school. It is essential for all public school officials who are considering undertaking a school building project. In 2019, the Division also offered *Story of a Library Building* at the recently renovated Stoughton Public Library for jurisdictions considering a library construction or renovation.

The Division also offered specialized classes, such as its a four-day class, *Certification for School Project Designers and Owner's Project Managers*. The Office created this class in response to an MSBA regulation that requires public school designers and owner's project managers to earn an MCPPO certification in order to work on MSBA-funded school projects. The Division also continued to offer a two-day class, *Charter School Procurement*, in response to a statutory mandate and introduced new



Inspector General Glenn Cunha discusses the construction of a new school building at Lester J. Gates Middle School at MCPPO's *Story of a Building* class

classes such as *Cybersecurity 101: Addressing Risks to Local Government* in response to growing cyber threats.

Figure 6. MCPPO Participants by Calendar Year

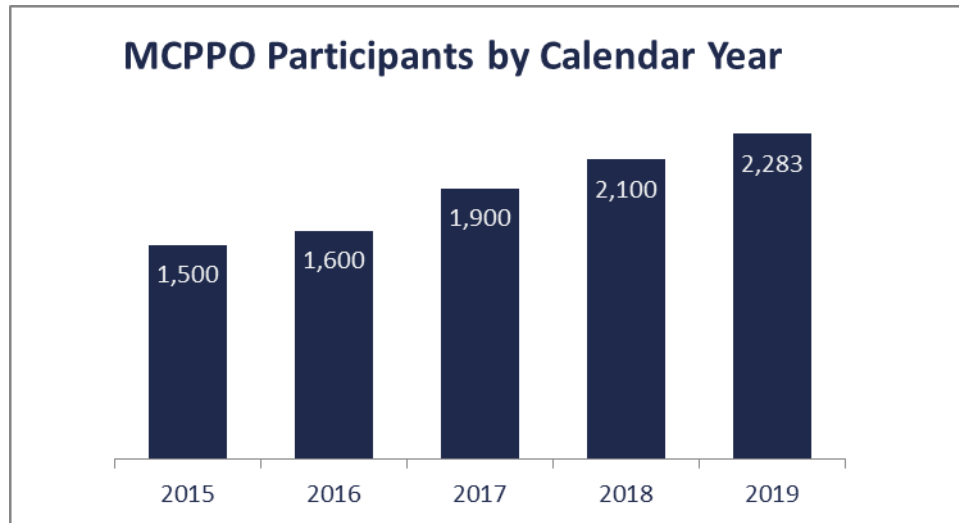


Figure 7. MCPPO Classes by Calendar Year

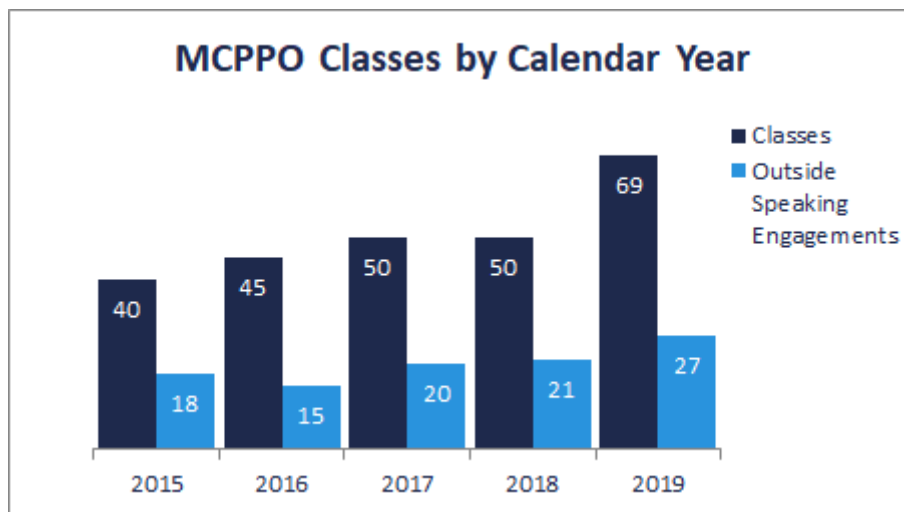
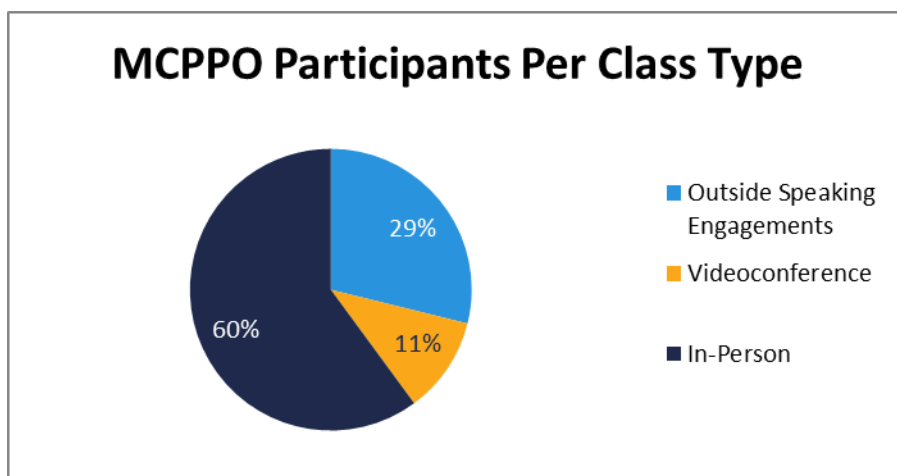
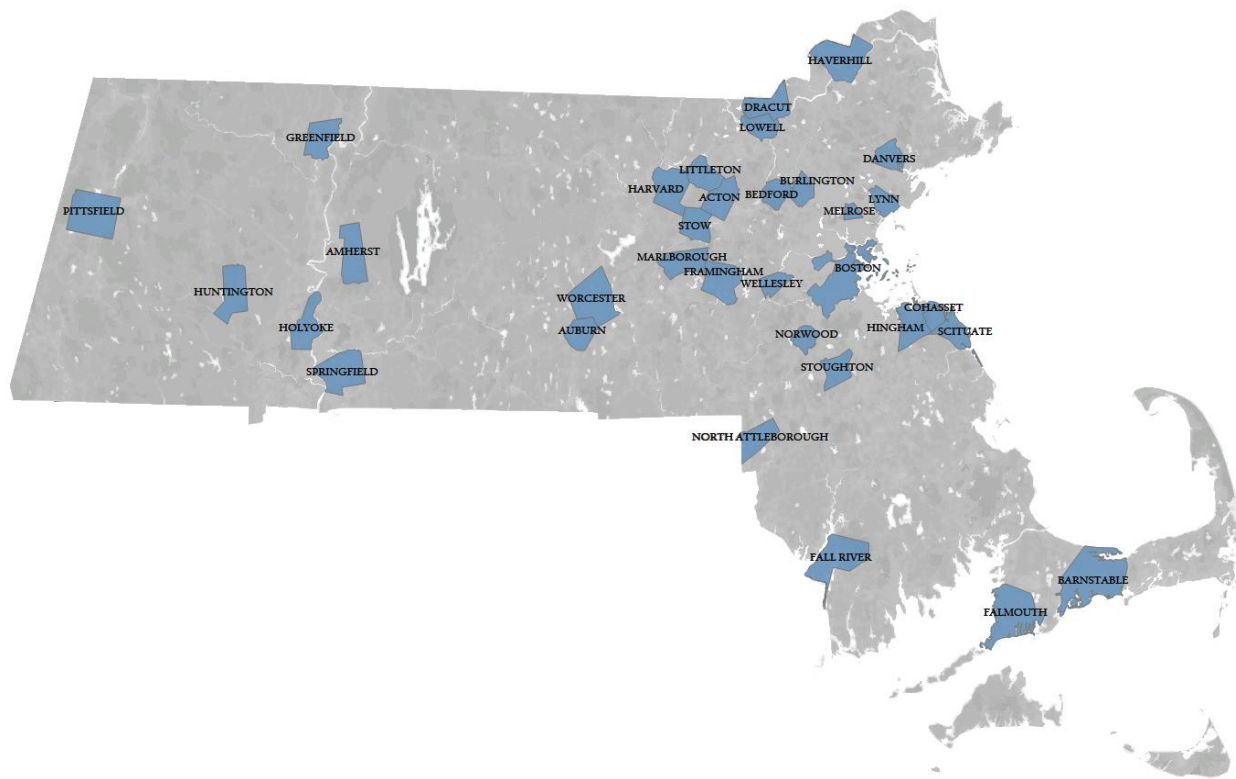


Figure 8. MCPPO Participants Per Class Type



The Division continued to incorporate additional videoconference classes into the MCPPO program, making it possible for those with travel, budget or personnel constraints to attend MCPPO classes. In 2019, the Division held 17 videoconferences at the following locations: Berkshire Community College in Pittsfield; Bristol Community College in Fall River; Gateway Regional School District in Huntington; Greenfield Community College in Greenfield; Northern Essex Community College in Haverhill; Suffolk University in Boston; the Centerville-Osterville-Marston Mills Fire District in Centerville; and the University of Massachusetts at Lowell. The Division thanks the staff at the jurisdictions that hosted its trainings for their participation. The Division is always looking for additional locations to host both live classes and videoconferences.

Figure 9. Map of Class and Presentation Locations
Map of Class and Presentation Locations



II. MCPPO Online Classes

In 2019, the Division began working with the University of Massachusetts' Donahue Institute to create online versions of some of its core classes. Combining online learning modules with instructor-led discussions and homework assignments, these classes will allow students to learn at their own pace while still providing opportunities to engage with their teachers and peers. The Division launched its first nine-week class – *Supplies and Services Contracting* – in the spring of 2020.

III. Online Training Videos

In 2019, the Division produced two online training videos, which are available for free on the Office's website and YouTube channel. *Fraud Awareness and Prevention in the Workplace* examines fraud and other financial misconduct in the workplace, including what causes individuals to commit such misconduct. The video also provides important information on how to prevent and detect fraud, theft and other financial misconduct in the workplace.

Public Purchasing for Supplies and Services in Massachusetts provides best practices and legal requirements for purchasing supplies and services in accordance with Chapter 30B. Providing these

videos and other web-based informational materials is part of the Office’s commitment to proactive outreach to the general public, public employees and companies that do business with the government.

IV. Outside Speaking Engagements

Education is essential to preventing the misuse of public money and property. Throughout 2019, the Office provided speakers on various topics, including public procurement; fraud prevention; board governance; public administration; and the Office’s mission, accomplishments and investigations. Staff made presentations to government agencies, universities and associations.

Figure 10. Outside Speaking Engagements



V. Technical Assistance Hotline

The Division regularly advises public employees on how to comply with the procurement laws, obtain the best value for their jurisdictions and increase competition for public contracts. As discussed earlier (see p. 9), the Division offers a technical assistance hotline to respond to questions concerning Chapter 30B, public construction bidding laws, local purchasing requirements, fraud prevention and internal controls. The hotline operates every workday and individuals can email the hotline or leave voice messages 24 hours a day. In 2019, the Division responded to 1,418 inquiries and questions.

VI. Electronic Registrations and Payments

In 2019, the Division introduced an electronic registration and payment process. The payment system has been successfully piloted with a sample of MCPPO classes. In 2020, the Division plans to offer electronic registration and payment for all MCPPO classes.

VII. MCPPO Training Email and Information Line

As interest in the MCPPO program continued to increase in 2019, the program introduced a telephone information line to supplement the MCPPO training program's email. The program received 3,823 inquiries in 2019. The MCPPO information line and training email operate every workday. Participants can leave voice messages or send an email 24 hours a day and an MCPPO member will respond as soon as possible.

VIII. Publications

The Division publishes a wide range of materials to educate and inform public employees, private companies and the public. Since 1994, for example, the Office has published the *Procurement Bulletin*, a quarterly newsletter containing information about public procurement, contract administration, fraud prevention, the Office's investigations and other topics of importance to helping government operate effectively, transparently and with accountability.

In 2019, each issue of the *Procurement Bulletin* reached approximately 5,500 individuals across Massachusetts. In addition, the Office recently changed the name of the *Procurement Bulletin* to the *OIG Bulletin* to better reflect the broad range of topics included in the publication. See page 62 for links to the some of the most-recent issues of the *OIG Bulletin*.

REPORTS, LETTERS AND PUBLICATIONS

When the Office completes an investigation, review or other project, it may issue a report, letter or case update. The Office also publishes manuals, advisories, guides and a quarterly *OIG Bulletin*. The following documents related to the Office's 2019 activities are available on the Office's website, www.mass.gov/ig.

I. Reports, Letters and Case Updates

- [Letter](#) to Plymouth County Commissioners Regarding the Plymouth County Dredge Program
- [Letter](#) to the Town of Montague Regarding a Disposition of Town-Owned Land
- [Letter](#) to Joint Committee on Public Service Regarding Post-Retirement Employment Enforcement
- [Case Update](#): A Former Director of the METCO Program in Marblehead Charged with Larceny
- [Case Update](#): OIG Assisted on Federal Identity Fraud Cases
- [Case Update](#): Joint Investigation Leads to Indictment of Former Non-Profit Employee for Embezzlement
- [Case Update](#): Fall River Mayor Indicted on New Bribery, Extortion and Conspiracy Charges
- [Letter](#) to Joint Committee on Tourism, Arts and Cultural Development Regarding Legislation Exempting Procurement Services for Artists
- [Letter](#) to Joint Committee on Education Regarding Legislation Proposing to Increase Purchasing Thresholds in M.G.L. Chapter 30B
- [Letter](#) to the Town of East Longmeadow Regarding the Surplus Disposition of a Fire Truck
- [Letter](#) to Joint Committee on Housing Regarding Local Housing Authority Legislation
- [Case Update](#): Joint Investigation Leads to Indictments of Former Public Officials on Larceny Charges
- [Report](#): Internal Special Audit Unit 2018 Annual Report
- [Report](#): Division of State Police Oversight 2018 Annual Report
- [Report](#): MassHealth and Health Safety Net Annual Report
- [Report](#): Ratepayer Cost Burden: The Expense of Municipal Light Plant's Sick-Leave Payouts
- [Letter](#) to the City of Methuen Regarding the Police Superior Officers' Contract

- [Case Update](#): OIG Found Methuen Officials Violated State and City Rules to Approve Police Contract, Recommends Rescinding City Council Approval of Agreement Providing Excessive Pay
- [Case Update](#): Joint Investigation Leads to Indictment of Former DDS Employee for Overtime Fraud
- [Letter](#) to Malden City Council on an Internal Control Review following Larceny and Embezzlement in Permits, Inspections and Planning Services Department

II. Legislative Testimony

- Inspector General's [Testimony](#) on House Bill 8, An Act Relative to Higher Education Boards of Trustees
- Inspector General's [Testimony](#) on House Bill 9, An Act Relative to Chapter 12A
- Inspector General's [Testimony](#) on House Bill 10, An Act Relative to Chapter 30B
- Inspector General's [Testimony](#) on House Bill 11, An Act Revising Chapter 30B

III. Publications

- [Procurement Bulletin](#), Vol. 25, Issue #3 (November 2019)
- [Procurement Bulletin](#), Vol. 25, Issue #2 (May 2019)
- [Procurement Bulletin](#), Vol. 25, Issue #1 (February 2019)