



**GLENN A. CUNHA**  
INSPECTOR GENERAL

## The Commonwealth of Massachusetts

### Office of the Inspector General

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May 23, 2017

Stephanie Pollack  
Secretary of Transportation  
Massachusetts Department of Transportation  
Ten Park Plaza, Suite 4160  
Boston, MA 02116

**Re: Rose Fitzgerald Kennedy Greenway Conservancy**

Dear Secretary Pollack:

I write concerning MassDOT's subsidy agreement ("agreement") with the Rose Fitzgerald Kennedy Greenway Conservancy ("Conservancy"). Pursuant to its mandate to prevent, detect and correct fraud, waste and abuse in the expenditure of MassDOT funds, my Office's Internal Special Audit Unit ("ISAU" or "Unit") is reviewing the Conservancy's use of public funds under the agreement. While the ISAU has not made any final determinations, the Office believes MassDOT should refrain from signing a new agreement with the Conservancy until the ISAU completes its review.

Based on the Unit's initial review of the information the Conservancy has provided to date, the ISAU has identified preliminary concerns with the Conservancy's use of the funds it receives from MassDOT.

**A. The Conservancy's Stewardship of Public Funds**

As you know, when MassDOT began financially supporting the Conservancy in 2008, it intended the funding to be temporary. To this end, the Conservancy was supposed to develop a business plan to become self-sustaining.<sup>1</sup> As of March 2017, the Conservancy had not yet developed a self-sustaining business plan. To date, MassDOT has spent over \$24 million to fund the Conservancy, despite the intention for it to be a self-sustaining, non-profit organization.

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<sup>1</sup> For instance, in a letter to the Conservancy, dated January 31, 2012, the former Massachusetts Secretary of Transportation stated that the Conservancy "was intended to be a self-sustaining entity with the ability to raise private funds...." He further stated that "[w]hile MassDOT and the former Turnpike Authority have continued to support maintenance and horticulture operations since 2008, I believe it is prudent for the Conservancy to begin to wean itself off government support."

Currently, moreover, MassDOT funding accounts for approximately 40% of the Conservancy's overall annual budget.

With this backdrop, it is important to evaluate the Conservancy's need for public funds. For instance, the Conservancy's senior staff is highly paid. The Executive Director who oversees the 17-acre Greenway earns \$210,000 a year. By comparison, the Commissioner of the Department of Conservation and Recreation ("DCR"), who oversees multiple parks totaling more than 450,000 acres across the state, earns \$130,000 annually. The Commissioner of Boston Parks and Recreation earned \$115,944 in 2016 and manages over 2,000 acres, including the Boston Public Garden and Boston Common. Moreover, the Conservancy's Chief Development Officer earns \$180,000 and the Conservancy also employs two art curators.<sup>2</sup> While the Conservancy purportedly does not use MassDOT funding to support these salaries, spending of other funding sources impacts the Conservancy's continued reliance on public funding.

In addition, the Greenway costs approximately \$326,328 per acre to run, based on the Conservancy's total expenses in 2016. In comparison, the collective parks managed by Boston Parks and Recreation cost the city \$11,627 per acre in 2016. Moreover, DCR's cost-per-acre in Fiscal Year 2017 was \$193. Given these drastic differences in cost, the Conservancy's budget and expenditures relative to the size of the park warrant further inquiry and evaluation.

#### **B. The Conservancy's Use of Funds Under the Subsidy Agreement**

According to the current subsidy agreement, MassDOT funds can only be used for horticulture and maintenance programs. Sections 8 and 9 of the subsidy agreement state:

Funds allocated to the Conservancy by MassDOT under this subsidy agreement may only be used for horticulture and maintenance programs. Only staff assigned to and involved in the daily operations of the horticulture and maintenance program may be supported from MassDOT funds. MassDOT funds may not be used for any other purpose.

Funds allocated to the maintenance and horticultural program may be used to fund personnel salaries at a level comparable to that of equivalent DCR staff. The Conservancy will be required to fund the remaining salary from non-state funds.

The plain language of the agreement makes it clear that the funds can only be used for expenses directly related to maintaining the park's green space and hardscape areas, such as maintaining the landscaping, fountain and gardens. MassDOT has publicly reiterated this limitation on the use of its funds. This limitation is entirely appropriate because the non-profit Conservancy has requested public funds; such funds should not be used for the routine costs related to running a non-profit organization.

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<sup>2</sup> These employees include a Public Art Curator who earns \$85,000 and a Curatorial Assistant who earns \$39,936.

While the ISAU's review is in its initial stages, it has identified MassDOT funds used for expenses that do not appear to fall within the subsidy agreement. Specifically, the ISAU has the following preliminary observations:

1. Overhead Costs

The Conservancy uses MassDOT funds to pay for general office expenses such as information technology, office supplies, telecommunications, legal expenses, payroll processing, postage, letterhead, business cards, check stock, website maintenance, software, server maintenance and general accounting expenses. Specifically, the Conservancy calculates its overall office expenses and attributes a portion of those expenses to horticulture and maintenance programs. These overhead charges are unrelated to the maintenance of the park itself, or of its green space; therefore, the Conservancy should not use public funds for these expenses.

2. Uniforms

The Conservancy provides its horticulture and maintenance staff (*i.e.*, the employees who work in the park each day) an annual uniform stipend of approximately \$475. In addition to this direct payment to employees, the Conservancy spent over \$10,000 on supplemental uniform purchases in 2016. The Conservancy used MassDOT funds to pay for the uniform stipend and the supplemental uniform purchases.

The Office questions whether uniforms – which are not necessary to maintaining a park – are permitted under the subsidy agreement. Such costs are not a direct horticulture or park maintenance expense. Even if uniforms do fall within the agreement, the 2016 supplemental uniforms purchases were for such items as bulk t-shirt orders, jackets and raincoats from L.L. Bean, fleece sweatshirts, boots, embroidered polo shirts, gloves and hats. Among other issues, it is unclear whether the items purchased constitute uniforms, or were provided to park volunteers. The purchases also raise questions about whether the Conservancy is competitively procuring such items, and therefore whether it is spending public funds efficiently.

3. Other Expenses

The Conservancy uses MassDOT funds to pay for other expenses that do not appear to fall within the subsidy agreement. This includes:

- a. Professional development for the horticulture and maintenance staff, including license renewal fees for individual employees, training programs, conferences and membership to professional societies.
- b. Recruiting expenses related to hiring horticulture and maintenance staff.

- c. Cell phone charges for horticulture and maintenance employees' cell phones and data plans.

While these expenses pertain to horticulture and maintenance staff, they are not attributable to the operation of the park itself.

#### 4. Horticulture and Maintenance Salaries

The Conservancy spends \$811,745 of MassDOT funding on salaries for horticulture and maintenance staff. This amount represents 41% of the total funding MassDOT provides and is in addition to the \$621,258 annually the Conservancy pays WORK INC.<sup>3</sup> for basic landscaping, snow removal and trash pickup. Moreover, the Conservancy's Director of Park Operations earns \$122,689; the Conservancy uses MassDOT funding to pay \$85,379<sup>4</sup> of this salary and pays the remainder out of other funding sources.

Based on the initial findings the ISAU identified, we ask that MassDOT postpone signing any new subsidy agreement and lease with the Conservancy until the Unit completes its review. Because the Conservancy is a non-profit organization, which is supposed to be self-sustaining, it must only use public funds for the narrow purpose contained in the subsidy agreement. Further, any extension of the subsidy agreement should be based on a demonstrated need for public funds in order to accomplish a public purpose. As set forth above, the ISAU's preliminary review has identified concerns with respect to both of these issues. For these reasons, I urge MassDOT to delay committing the Department to any future funding of the Conservancy.

I would be happy to meet to discuss this matter further, if that would be of assistance to you. Thank you.

Sincerely,



Glenn A. Cunha  
Inspector General

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<sup>3</sup> WORK INC. is a non-profit agency that provides work opportunities to persons with disabilities.

<sup>4</sup> The MassDOT portion of \$85,379 represents the amount of the salary that is equivalent to a comparable position at DCR.