



OIG BULLETIN

Official Newsletter of the Office of the Inspector General

Greetings,

This month marks the end of my second and final five-year term as Inspector General of the Commonwealth of Massachusetts. Serving as Inspector General for the last ten years has been an honor and a privilege. I have had the opportunity to lead a team of talented and hardworking employees who are deeply committed to the mission of the Office of the Inspector General (OIG or Office) – preventing and detecting fraud, waste and abuse of public funds. I have also had the good fortune to meet and speak with many students who have taken classes through our Massachusetts Certified Public Purchasing Official (MCPPO) program. I have found that our MCPPO students are devoted public servants and individuals dedicated to good government and efficient use of our hard-earned tax dollars.

During my tenure at the OIG, our Office began numerous initiatives that reflect our commitment to sound government practices, effective management, and diversity and inclusion. The MCPPO program has expanded five-fold from more than 1,000 students in 2012 to more than 5,000 in 2020. With the support of the Legislature, the Office has added three divisions specifically to oversee expenditures in the Department of Transportation, benefits programs in the Executive Office of Health and Human Services, and overtime and details in the Massachusetts State Police. In addition, the Office established two new units designed to support our mission. Created in 2019, the Civil Recovery Unit (CRU) pursues civil actions to recover public funds lost to fraud perpetrated against a local jurisdiction or government agency. The CRU works closely with the state Attorney General's Office, the OIG's other investigative units, and other state agencies and local governments. Created in 2022, the Pandemic Funding Oversight Unit works to prevent, detect and correct fraud, waste and abuse related to COVID-19 response funds through training and compliance monitoring.

In 2017, I led the entire Office in a five-year strategic planning process. Through that process, we identified four goals for the Office, including the cultivation of a diverse, skilled and engaged workforce. To help achieve that goal, the Office created two diversity fellowships: the Frances Burke Diversity Fellowship for Investigators, and the Honorable Geraldine Hines Diversity Fellowship for Lawyers. Notably, our first Burke Fellow completed her fellowship and is now a full-time investigator for the OIG. Our second and third Burke Fellows just started the second year of their fellowships, and our second Hines Fellow is well into his first year. All are making meaningful contributions to the Office's work.

As I complete my second term as Inspector General, I am grateful for the opportunity to serve the people of the Commonwealth and cap off a 28-year career of public service. I am proud of all the Office's accomplishments over the last ten years, particularly the improvement and modernization of our fraud hotlines and our Chapter 30B technical assistance hotline. With a talented staff devoted to fulfilling our statutory mission, the Office is set up for future success. Thank you to all for your support and interest in the work of the OIG. It has been my pleasure to serve you.

Sincerely,

A handwritten signature in blue ink that reads "Glenn A. Cunha".

Glenn A. Cunha

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Protect Your Community

If you suspect fraud, waste or abuse of public funds or property, you can confidentially report your concerns



[OIG Fraud Reporting Form](#)



Send us an email at IGO-FightFraud@mass.gov

Have a Question About Chapter 30B?



Send us an email at 30BHotline@mass.gov

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Recent OIG Investigations

Electricity Supplier Pays More than \$1.65 Million for Avoiding Payment Obligations to State

On June 30, 2022, Attorney General Maura Healey and Inspector General Glenn Cunha announced that a company that sold electricity to Massachusetts customers paid more than \$1.65 million to resolve allegations that it knowingly failed to make payments to the Commonwealth under three state environmental programs.

Utility Expense Reduction, LLC (UER), a New York-based company, operated as an electricity supplier in Massachusetts from 2016 to 2019. Companies selling electricity to Massachusetts customers must obtain a certain percentage of their electricity each year from [renewable](#), [alternative](#) and [clean](#) energy sources. If they do not obtain electricity from these sources, companies must make an annual payment that goes towards accelerating the clean energy sector and supporting programs to mitigate the impacts of climate change. The Commonwealth instituted these requirements to promote the use of renewable, alternative and clean energy; encourage energy efficiency; and reduce greenhouse gas emissions. The [Massachusetts Department of Energy Resources \(DOER\)](#) and [Massachusetts Department of Environmental Protection \(MassDEP\)](#) oversee compliance with the programs.

The Commonwealth alleged that UER failed to obtain the required renewable, alternative or clean energy for 2018 and 2019, and knowingly avoided its obligation to make the required payments for either year. Instead, UER left the Massachusetts electricity market in 2019, owing over \$825,000 to the state.

In a complaint and consent judgment filed in Suffolk Superior Court, the Attorney General and the Inspector General alleged that the company violated the Massachusetts False Claims Act when it knowingly avoided its obligation to make required payments under the state's renewable and clean energy programs. In addition, the Attorney General and the Inspector General alleged that UER's conduct violated the Consumer Protection Act and several environmental statutes, including the Renewable Energy Portfolio Standard, the Alternative Renewable Energy Portfolio Standard and the Clean Air Act.

Under the terms of the agreement, UER paid over \$1.65 million, including restitution and penalties, and will not operate in the Commonwealth for five years.

This case was handled by the OIG's Civil Recovery Unit and the AGO's False Claims Division, with support from the AGO's Environmental Protection and Energy and Telecommunications Divisions, as well as Mass-DEP and DOER.

Former Accountant for Four Massachusetts Communities Pleads Guilty to Stealing \$930,000

On May 25, 2022, the former accountant for the town of Uxbridge, who was indicted in 2020 and 2021 in connection with the alleged theft of \$930,000 from four Massachusetts towns, pled guilty to all 18 charges against him in Worcester County Superior Court.

Justin Cole worked as Uxbridge's town accountant between 2007 and 2018. He also provided accounting services on a contract basis to the towns of Millville, Monterey and Wenham through his company, Baystate Municipal Accounting Group. In a joint investigation with the Massachusetts Attorney General's Office, the OIG found evidence that Cole stole town funds by submitting false invoices for services that were never provided. The investigation also found evidence that Cole used town funds to pay two vendors of his private businesses for office rent and software purchases.

In 2020, a grand jury indicted Cole on seven counts of larceny, four counts of presentation of false claims, four counts of receiving an unwarranted privilege and one count of having a financial interest in a municipal



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Recent OIG Investigations (continued)

contract. These charges related to the theft of more than \$657,000 from Uxbridge, \$47,000 from Millville and \$24,000 from Monterey. A second grand jury indictment in 2021 added another larceny count and a false claim count against Cole in connection with the theft of more than \$200,000 from Uxbridge and Wenham.

On May 25, 2022, Cole pled guilty to all 18 charges. A Superior Court judge sentenced him to three years and one month in the Worcester County House of Correction, followed by three years of probation. The judge also barred Cole from performing financial services for any person or entity while incarcerated or on probation. The court will hold a hearing on restitution following his release.

OIG Investigation Leads to Decertification of Former Disadvantaged Business Enterprise

The OIG investigated allegations that the owner of a disadvantaged business enterprise (DBE) did not qualify as economically disadvantaged, in accordance with federal regulations. Between 2001 and 2020, the company, Atlantic Bridge & Engineering, Inc. (ABE), received subcontracts and supplied materials on 228 Massachusetts Department of Transportation (MassDOT) projects totaling \$229 million.

The U.S. Department of Transportation (USDOT) created the disadvantaged business enterprise program to increase the number of minority- and women-owned businesses that work on federally funded projects. The primary goal of the USDOT DBE program is to provide enhanced opportunities for small businesses owned and controlled by socially and economically disadvantaged individuals to work on transportation projects.

The OIG concluded that ABE's owner was not economically disadvantaged under the federal DBE regulations, which state that a DBE owner's presumption of economic disadvantage can be rebutted if they are "able to accumulate substantial wealth." [49 C.F.R. § 26.67\(b\)\(1\)\(ii\)\(A\)](#). The OIG based its conclusion on an in-depth analysis of the business owner's overall economic condition, including her ownership of other businesses, vast real estate portfolio, access to credit and lavish spending from both personal and business accounts.

The OIG reported the matter to MassDOT to evaluate the company's DBE certification. MassDOT's Unified Certification Program (UCP) agreed with the OIG's findings. The Adjudicatory Board of the Massachusetts UCP (Board) initiated ineligibility proceedings based on a determination that ABE's owner is not economically disadvantaged. After a hearing, the Board concluded in a written decision, dated May 2, 2022, that ABE no longer meets the eligibility standards of [49 C.F.R. § 26](#) and therefore agreed that MassDOT's proposal to decertify the firm was appropriate.

Non-Profit's Founders Indicted on Federal Fraud and Conspiracy Charges

On March 14, 2022, a federal grand jury indicted two of the founders of Violence in Boston (VIB), a Boston-based non-profit organization. The indictment alleges that Monica Cannon-Grant and Clark Grant illegally diverted VIB donations and grants and used the money for car repairs, groceries, a vacation and other personal expenses.

The indictment also charges Cannon-Grant and Grant with defrauding the Massachusetts Department of Unemployment Assistance by submitting false documents to obtain Pandemic Unemployment Assistance benefits that they were not entitled to receive. The two defendants also allegedly conspired to defraud a mortgage company by submitting false documentation in support of a loan application. The 18-count indictment charges Cannon-Grant and Grant with 13 counts of wire fraud, 2 counts of wire fraud conspiracy, 1 count of conspiracy and 1 count of making false statements to a mortgage lending company. The indictment also charges Cannon-Grant with 1 count of mail fraud.

The indictment resulted from a joint federal-state investigation that included the Massachusetts OIG. The U.S. Postal Inspection Service, the U.S. Department of Labor's Office of Inspector General, the Internal Revenue Service, and the U.S. Department of Housing and

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Fraud Can Happen Anywhere

If you suspect fraud, waste or abuse involving public funds, contact the OIG Fraud Hotline.

(800) 322-1323

IGO-FightFraud@mass.gov

Recent OIG Investigations (continued)

Urban Development's Office of Inspector General also participated in the investigation.

Founded in 2017, VIB's stated purpose is to reduce violence and to raise social awareness about the causes of violence and its impact on communities. Cannon-Grant is the founder and CEO of VIB, and Grant is a founding director. According to the indictment, Cannon-Grant and Grant concealed their criminal conduct from VIB's donors as well as from VIB's other officers and board members.

Cannon-Grant and Grant are presumed innocent unless and until proven guilty in court.

AGO and OIG File Suit Against Former State Troopers to Recover Unearned Pay and Reach Settlements with Two Additional Troopers

On March 14, 2022, the AGO and the OIG filed suit against three former Massachusetts State Police (MSP) troopers to recoup pay they received for unworked overtime.

On May 2, 2022, the Commonwealth amended the complaint to add a fourth former trooper as a defendant. The AGO and OIG are seeking to recover over \$50,000 from the former troopers.

The complaint, filed in Boston Municipal Court, alleges that Daniel Crespi, Jeffrey Morrill, Raymond O'Neil and James Richardson falsely reported working certain overtime shifts as MSP troopers. The troopers were members of the MSP's now-disbanded Troop E, which patrolled the Massachusetts Turnpike. The MSP had assigned the four former troopers to state roadway patrol shifts to engage in high-visibility enforcement of state traffic laws. The suit alleges that in 2016 and 2017, the troopers left some overtime shifts early and were not present at all for other shifts. Despite not working all or portions of the shifts, the former troopers submitted time records to the MSP requesting payment for the full shifts.

Since 2021, the AGO and OIG have recovered over \$245,000 from 13 former MSP troopers in settlements to resolve allegations of unworked overtime. Most recently, on April 22, 2022, the agencies announced settlements with former troopers Brian Kelley and Jeffrey Roderick for over \$8,900. The Commonwealth alleged that, between 2015 and 2017, Kelley submitted timecards for 86.5 hours of overtime that he did not work

across 40 shifts. In addition, the Commonwealth alleged that Roderick submitted timecards for 75 hours of overtime that he did not work across 42 shifts during the same period.

OIG Report on the Holyoke Soldiers' Home

In keeping with its statutory mandate to promote good government by preventing and detecting the misuse of public funds and property, the OIG investigated the oversight, governance and management of the Holyoke Soldiers' Home (Home) between May 2016 and February 2020. The Home is a state-run facility that provides long-term, hospice, dental and outpatient care for Massachusetts veterans. The Office began its investigation in 2019 after receiving an anonymous complaint raising several concerns about then-Superintendent Bennett Walsh. The Office's investigation identified critical shortcomings in the management of the Home as well as concerns regarding the supervision of Superintendent Walsh.

On April 29, 2022, the Office released a 90-page report, [Holyoke Soldiers' Home, May 2016 to February 2020](#), detailing its findings and outlining a comprehensive blueprint for lasting improvements at the Home. As more fully described in its report, the Office found:

- The governor, secretary of the Executive Office of Health and Human Services (EHS) and the Home's Board of Trustees (Board) did not follow the statute that gives the Board the power to appoint the Home's superintendent. Rather, the Board recommended three candidates, the EHS secretary met only with Mr. Walsh and the governor appointed him as the Home's superintendent.
- Superintendent Walsh did not have and did not develop the leadership capacity or temperament for the role of superintendent. He created an unprofessional and negative work environment, retaliated against employees he deemed disloyal, demonstrated a lack of engagement in the Home's operations and circumvented his chain of command.
- EHS and Department of Veterans' Services (DVS) officials failed to adequately address serious complaints by senior managers and others at the Home. Administration officials, primarily at EHS, failed to recognize that the recurring complaints indicated that Superintendent Walsh did not have

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OIG Report on the Holyoke Soldiers' Home (continued)

the leadership skills or temperament to lead the Home.

- Although EHS undertook two investigations of Superintendent Walsh's actions during his four-year tenure, those investigations were flawed, unnecessarily restricted in scope and biased in Superintendent Walsh's favor.

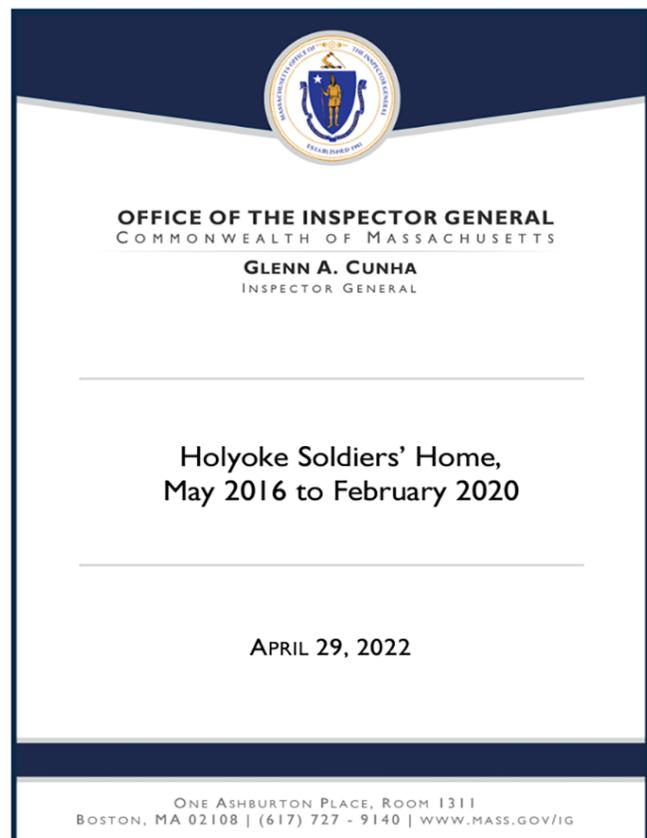
In the report, the Office makes recommendations to fix longstanding structural problems, address fundamental flaws related to oversight, and strengthen management and accountability. The legislative recommendations include:

- DVS, which is currently within EHS, should be elevated to a cabinet-level secretariat. One person must be responsible for the oversight and management of the superintendent; one person must have the authority and responsibility to appoint, supervise, discipline and remove the superintendent. The DVS secretary should have this authority and responsibility for the superintendents at the Soldiers' Homes in Holyoke and Chelsea (together, the Soldiers' Homes).
- Superintendents of the Soldiers' Homes must meet certain requirements, including being licensed nursing home administrators with extensive management experience.
- The Department of Public Health should have the authority and funding to provide independent clinical oversight and support for the Soldiers' Homes.
- DVS should establish an ombudsperson and a hotline to allow confidential reporting by residents, relatives, staff and concerned citizens.

This report is only one piece of a larger effort by the Office to address issues related to both Soldiers' Homes. During the past year, the Office has been working to address new concerns about the Soldiers' Homes. The Office is also continuing to monitor the Soldiers' Homes' implementation of long-standing recommendations from outside consultants and past studies. For example, since at least 2015, consultants and studies have recommended that both Homes implement an electronic medical records management

system, but neither EHS nor DVS has made this a priority for the Homes. In addition, the Office is drafting a letter focused on the financial structure and management of the Holyoke Soldiers' Home, which will detail the Office's findings about the lack of internal controls at the Home and fiscal mismanagement by the Board.

Our veterans deserve quality healthcare and residential services. Delivering these services requires effective leadership, oversight, procedures, staffing and operations at the Soldiers' Homes. The Office hopes that the Legislature, EHS, DVS and the Homes implement the Office's recommendations and make the changes necessary to ensure that our veterans and their families receive the care and support they need.



Ten Years of Growth: Reflections on Glenn Cunha's Tenure as Inspector General

Glenn Cunha was sworn in as the fourth Inspector General (IG) for the Commonwealth of Massachusetts on August 6, 2012. Because the IG may serve no more than two five-year terms, Cunha will soon reach the end of his tenure. See [M.G.L. c. 12A, § 2](#). During his ten years as IG, Cunha has continuously sought to improve the ways in which the Office serves the people of the Commonwealth by preventing and detecting the misuse of valuable public resources. Those ten years saw rapid growth in all areas of the Office, including staffing, trainings offered, complaints received and reviewed, and referrals to prosecutors of alleged criminal and civil misconduct, as well as a greater focus on developing a diverse and talented workforce. Together, these efforts have enhanced the Office's ability to fight fraud, waste and abuse of public funds and property in Massachusetts.

When Cunha began in August 2012, the Office had 33 employees. Today, the number stands at 81 (including fellows, interns and cooperative students). This increase is due in large part to the creation within the Office of new divisions and units focused on specific areas of government funding in need of heightened oversight. In 2009, the Massachusetts Legislature created the Internal Special Audit Unit (ISAU) to monitor the quality, efficiency and integrity of the Massachusetts Department of Transportation (MassDOT)'s operating and capital programs. See [M.G.L. c. 6C, § 9](#). However, although the Legislature created the ISAU in 2009, it did not fund the unit. Cunha worked with MassDOT to secure funding for the ISAU in 2012. Since then, the ISAU has issued 11 audit and investigative reports or letters related to large-scale bridge construction contracts, town roadway projects, disability placard abuse and electronic tolling along the Massachusetts Turnpike, among other topics; provided 7 anti-fraud trainings specific to MassDOT and Massachusetts Bay Transportation Authority (MBTA) employees; and taught 3 Massachusetts Certified Public Purchasing Official (MCPPO) program trainings. It has also responded to 1,623 complaints about suspected fraud, waste and abuse of public or private transportation funds.



In 2013, the Legislature created within the Office the Bureau of Program Integrity (BPI) to oversee the quality, efficiency and integrity of benefits programs in the state Executive Office of Health and Human Services (EOHHS). See [M.G.L. c. 6A, § 16V](#). Since its creation, BPI has issued 3 public reports, 24 advisory letters to EOHHS agencies and 3 letters to the Legislature. In addition, BPI has responded to 124 hotline complaints regarding EOHHS agencies and programs.

In 2018, the Legislature created the Division of State Police Oversight (DSPO) to monitor the quality and integrity of the Massachusetts State Police (MSP)'s operations, organizational structure and management functions. See [M.G.L. c. 22C, §§ 72-73](#). DSPO has conducted multiple audits and reviews aimed at detecting, correcting and preventing fraud, waste and abuse related to overtime and paid details, which represent a significant portion of the MSP's annual budget.

In 2019, Cunha created the Civil Recovery Unit (CRU) within the Office's Legal Division. For the first time in its history, the Office has a unit dedicated to recovering public money lost to fraud. In partnership with the Massachusetts Attorney General's Office, the CRU has recovered over \$3.5 million on behalf of state and local entities in its first three years of operation.

Finally, in 2022, Cunha created the Pandemic Funding Oversight Unit (PFO) within the Office's Policy and Government Division. PFO coordinates the Office's oversight of federal funds distributed in connection with the COVID-19 pandemic and its economic consequences. Since its creation, PFO has trained hundreds of municipal employees on rules and best practices related to federal funding and created an American Rescue Plan Act information hub on the OIG's website. PFO also represents the Office on the state Federal Funds Equity and Accountability Panel.

Over the past ten years, the Office has responded to a rising number of reports of suspected fraud, waste and abuse of public resources. Calls to the Office's general fraud hotline increased 400% between 2013 and 2021. The investigation of these complaints has led to an exponential increase in the number of refer-

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Ten Years of Growth: Reflections on Glenn Cunha's Tenure as Inspector General (continued)

rals of suspected wrongdoing to prosecutorial agencies, such as the U.S. Attorney's Office, the Massachusetts Attorney General's Office and local District Attorney's offices. Since 2012, the Office's work in collaboration with prosecutors' offices has resulted in criminal charges or indictments against 42 individuals and restitutions and settlement agreements of more than \$33 million.

As the Office has investigated increased reports of fraud, waste and abuse to its hotlines, it has also broadened its efforts over the past ten years to prevent fraud, waste and abuse in the first place. Cunha oversaw the expansion of the Office's educational programming, which aims to train public employees and others about how to prevent and detect fraud, waste and abuse of public funds in their own jurisdictions. The Office expanded the number of MCPPO program offerings from 47 in 2012 to 110 in 2021. The number of MCPPO participants increased from more than 1,000 in 2012 to more than 5,000 in 2020. The Office also expanded the number of videoconference and in-person classes offered outside of Boston. In 2020, the Office introduced its first self-paced, web-based classes. Then, in response to the COVID-19 pandemic, the Office converted all MCPPO program class offerings to a fully online format, making participation easier than ever for individuals across the state.

Under Cunha's leadership, the Office has also sought to create a workplace that welcomes, respects and values all people. As part of that effort, the Office created two fellowship programs to recruit and retain a talented and diverse workforce: the Dr. Frances Burke Diversity Fellowship for Investigators (named after a champion for state ethics and public service) and the Honorable Geraldine S. Hines Legal Diversity Fellowship for Lawyers (named after a longtime advocate for civil rights and the first Black female justice to serve on the Massachusetts Supreme Judicial Court). In addition, since 2012, the Office has welcomed a John William Ward Public Service Fellow during the summer. The Ward Fellowship allows Boston Latin School students to gain valuable work experience in the public sector. In 2021, the Office began hosting a summer fellow through the Boston Bar Association Diversity, Equity and Inclusion Summer Fellowship program, which enables law school students from historically underrepresented groups who are committed to public service to spend their summer working full-time for a government agency.

The Office is proud to play a role in helping to educate local undergraduate and graduate students through internships and other placements. The Office's Audit, Oversight and Investigations Division has supervised college students from Northeastern University through its cooperative learning program since 2004. More than 40 cooperative students have worked in the Office during Cunha's two terms, including 3 cooperative students currently placed in the Office. Eleven former cooperative students have moved on to full-time employment with the Office as investigators or fellows. In addition, the Office's Legal Division hosts students from New England School of Law's Government Lawyers Clinic during the fall and spring semesters. These legal interns earn course credit while working part-time under the supervision of OIG attorneys. The Legal Division also hires two law students each summer to work as full-time legal interns. Finally, the Office's Policy and Government Division and the Bureau of Program Integrity periodically recruit and hire graduate students to work as data analytics interns.

During Cunha's tenure, the Office of the Inspector General has grown significantly, adding new divisions and units while remaining faithful to its mission to prevent and detect fraud, waste and abuse in the use of public resources and to promote transparency and integrity in government. Today, the Office receives more hotline calls, conducts more investigations and offers more classes than ever before, all while cultivating a diverse and inclusive workplace. Much of this growth can be attributed to Cunha's leadership and vision, but the Office's success also depends on its employees, dedicated public servants who will continue to work hard to fulfill the Office's mission even after Cunha's term ends.

INDEPENDENCE & OBJECTIVITY

Our work is fact-based, independent, without bias or undue influence, and supported by sufficient and credible evidence.



Best Practices for Using Coronavirus Local Fiscal Recovery Funds

The federal American Rescue Plan Act (ARPA) provided approximately \$8.7 billion in fiscal recovery funds to Massachusetts to help the Commonwealth recover from the COVID-19 pandemic. The \$8.7 billion is available to Massachusetts through two ARPA funding streams: the state received \$5.3 billion from the Coronavirus State Fiscal Recovery Fund (CSFRF), while municipalities and functional counties in the Commonwealth received \$3.4 billion directly from the Coronavirus Local Fiscal Recovery Fund (CLFRF). The Legislature is in the process of allocating CSFRF funds, but municipalities and counties determine how to allocate their own CLFRF funds.

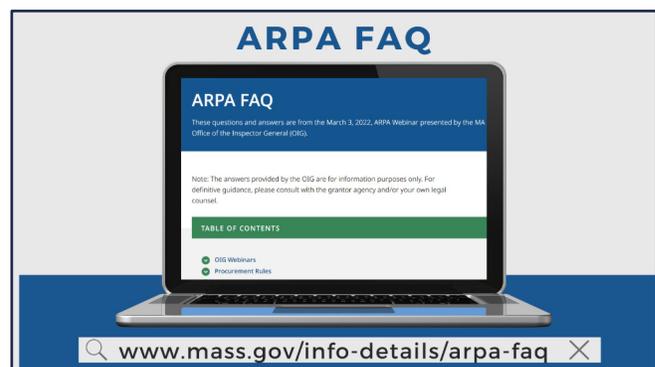
Congress specified four categories of eligible uses for CSFRF and CLFRF funds. Recipients may use this funding to: (1) respond to the public health emergency with respect to COVID-19 or its negative economic impacts; (2) provide premium pay to eligible employees providing essential work during the COVID-19 public health emergency; (3) provide government services to either (a) the extent of a government's reduction in revenue due to COVID-19 or (b) \$10 million; and (4) invest in water, sewer and broadband infrastructure. See [31 C.F.R. § 35.6](#).

Consistent with its statutory authority to prevent and detect fraud, waste and abuse in the use of public funds and property ([M.G.L. c. 12A, § 7](#)), the Office has developed the following guidance for municipalities and counties about best practices for spending fiscal recovery funds:

- Municipalities and counties should ensure that they understand and comply with all applicable guidance. They should review the [American Rescue Plan Act](#) itself, plus [guidance from the U.S. Department of the Treasury](#); [federal regulations](#) outlining administrative requirements, cost principles and audit requirements for recipients of federal funds; and other guidance documents to ensure compliance with eligible uses. Local governments should also review guidance provided by state agencies, including information provided by the [Federal Funds Office](#) in the Executive Office for Administration and Finance.
- Jurisdictions should engage with constituents and stakeholders to assess community needs, priorities and costs to ensure that they use funds effectively.

CLFRF funding recipients may use the funds to cover eligible costs they incur between March 3, 2021, and December 31, 2024, provided they expend the funds by December 31, 2026. [31 C.F.R. § 35.5](#). This timeframe gives local governments time to make thoughtful plans about the best uses for these funds. They should also consider how to use the funds to promote equitable delivery of government benefits and opportunities to underserved communities. Local governments should communicate with their state, local and non-profit partners to ensure that they do not duplicate funding efforts. Jurisdictions should consider collaborating with state, regional or local entities to help distribute funds or administer programs more efficiently.

- Local governments should plan for successful procurements. All CLFRF-related procurements must comply with the full and open competition requirements of the federal procurement regulations. See [2 C.F.R. § 200, Appendix II](#). Jurisdictions must maintain adequate records of each CLFRF-funded procurement to comply with reporting requirements and avoid recapture of funds by the federal government.
- Municipal and county governments should establish proper internal controls and review internal controls already in place. Because assessing programmatic and organizational risk is an important part of developing strong internal controls, jurisdictions should periodically conduct written risk assessments and mitigate any risks identified. Municipalities and counties should build upon the lessons they learned from the



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Best Practices for Using Coronavirus Local Fiscal Recovery Funds (continued)

CARES Act and other earlier rounds of pandemic funding in developing internal controls.

- Local governments should review their staffing plans to ensure they have adequate, qualified staff dedicated to administering and tracking funding and managing new and existing programs. Adhering to best practices requires appropriate staffing. Jurisdictions should consider investing time and resources in training staff on the new requirements. Be aware that certain administrative costs may be eligible for reimbursement using CLFRF funds.
- Local governments should prepare to meet reporting requirements. They should be aware of the applicable requirements and deadlines and plan ahead to ensure adequate time for compliance. After allocating money towards projects, local governments should collect the necessary documentation and maintain these documents after all CLFRF funds are spent. They should consult applicable record retention laws, regulations and policies to determine the required retention period.

Remember that the Office is here to support municipalities and counties in their recovery from the COVID-19 pandemic. The Office offers periodic trainings about ARPA funding requirements through its MCPPO program. In addition, the Office compiled an [ARPA Resources](#) page on its website that includes guidance and answers to frequently asked questions about the use of ARPA funds.

Protect American Rescue Plan Funds!

Help ensure that ARPA funding is used to help communities recover from the devastating health and economic impacts of COVID-19



Prevailing Wage Requirements When Using OSD Contracts

Submitted by:

*Heather Rowe, Chief of Investigations
Fair Labor Division*

Office of Attorney General Maura Healey

This article serves as a reminder that the buyer has a legal obligation to request a prevailing wage rate schedule from the Department of Labor Standards (DLS) at www.mass.gov/dols/pw for any purchase of a good or service that will require construction. Generally, this includes new (vertical or horizontal) construction, renovation, demolition, maintenance, repair or installation that involves additions to or alterations of a public building or public work. Questions regarding the applicability of the Prevailing Wage Law may be answered by accessing the [DLS website](#) or by calling the DLS Prevailing Wage Program at (617) 626-6953. Buyers are legally required to obtain a prevailing wage rate schedule and must include this information in their solicitation(s) so contractors/vendors know to include payment of the prevailing wage in their bids or quotes. Once a contractor/vendor is chosen, the wage rate schedule is required to be incorporated as part of the contract.

Buyers must collect weekly certified payroll records from contractors/vendors to ensure that prevailing wages are paid. [Section 27B of Chapter 149 of the Massachusetts General Laws](#) requires the following information be contained on certified payroll records:

- For each employee, the name, address, occupational classification, hours worked, and wages paid.
- For each apprentice, in addition to the aforementioned information, contractors/vendors must include a photocopy of the apprentice's ID card issued pursuant to [Section 11W of Chapter 23 of the Massachusetts General Laws](#).
- For projects estimated to be worth more than \$10,000, a copy of an Occupational Safety and Health Administration (OSHA) 10-hour training certification is required to be submitted for each employee that appears on a certified payroll record. [M.G.L. c. 149, § 27B](#). An example certified payroll record (report form) that buyers can

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Prevailing Wage Requirements When Using OSD Contracts (continued)

require contractors/vendors to use is available at www.mass.gov/dols/pw.

In addition to public construction, there are other types of “public work” in which the payment of prevailing wage is required. Buyers are legally required to obtain a prevailing wage rate schedule and must include this information in their solicitation, so contractors/vendors know to include payment of the prevailing wage in their bids or quotes. Once a contractor/vendor is chosen, the wage rate schedule is required to be incorporated as part of the contract.

Common non-construction public work in which prevailing wage rates are required to be paid include the following:

- Use of trucks, vehicles, and other equipment to perform public works functions including trash and recycling collection and hauling. See [M.G.L. c. 149, § 27F](#).
- Moving office furniture and fixtures. See [M.G.L. c. 149, § 27G](#).
- Cleaning state office buildings or buildings leased by the state. See [M.G.L. c. 149, § 27H](#).
- Transportation of students to public schools, including charter schools. See [M.G.L. c. 71, § 7A](#).

Note that collection of weekly certified payroll records is not required for the above non-construction public works projects. Certified payroll reporting requirements apply only to public construction projects.

Under certain circumstances, workers who are not paid the proper prevailing wage rates for all hours worked have a right of action against the city or town to recover wages. See [M.G.L. c. 149, § 28](#).

If you have a question about whether or not a project requires prevailing wages, you must contact DLS. To report contractor/vendor non-compliance, please contact the Office of the Attorney General’s Fair Labor Division at (617) 727-3465 or www.mass.gov/ago/flid.

Highlights from the 2021 Annual Report

Every spring, the OIG publishes a comprehensive annual report summarizing its work during the previous calendar year. On April 30, 2022, the Office released its [2021 Annual Report](#), which documents the Office’s continued efforts to prevent and detect fraud, waste and abuse in the use of public funds and resources. As the 2021 Annual Report demonstrates, the ever-changing landscape of the COVID-19 pandemic has not diminished the Office’s productivity or commitment to conducting thorough and thoughtful investigations, audits and reviews and pursuing civil recoveries on behalf of the people of the Commonwealth.

In 2021, the Office collaborated with other agencies to provide enhanced oversight of billions of dollars in pandemic-related funds distributed by the federal government to agencies, businesses, individuals and non-profit organizations. The Office later established the Pandemic Funds Oversight Unit to continue to provide this oversight. In addition, the Office continued to offer online instruction on subjects including public procurement, contract administration and fraud prevention through its MCPPO program. In fact, the MCPPO program expanded its offerings in 2021, teaching 85 online classes and participating in 25 outside speaking engagements.

Highlights from the 2021 Annual Report include:

- Completing investigations and reviews that led to the recovery of over \$7.9 million in restitution and settlements.
- Teaching over 4,300 students through the MCPPO program.
- Receiving and responding to 2,690 complaints on our fraud hotlines, almost double the number of complaints from 2019.
- Identifying and recovering more than \$470,000 in overpaid retirement benefits made by the MBTA Retirement Plan.
- Conducting a joint investigation with the Attorney General’s Office that led to the indictment of a non-profit CEO for allegedly embezzling nearly \$1.5 million from the nonprofit organization.

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Highlights from the 2021 Annual Report (continued)

- Collaborating with the Department of Developmental Services to respond to misuse of COVID-19 pandemic relief funds by vendors that run group homes.
- Engaging with the Department of Veterans' Services and the Department of Public Health to address several complaints regarding the two Massachusetts Soldiers' Homes. (See page [5](#) for more information about the Office's investigation of the Holyoke Soldiers' Home.)
- Providing recommendations and technical assistance to help the Department of Transitional Assistance (DTA) identify benefits recipients who violated program rules by failing to disclose that they were receiving DTA benefits and unemployment benefits at the same time.
- Reviewing data evaluating overtime paid to, but not worked by, Massachusetts State Police (MSP) troopers.
- Recovering over \$236,000 in settlements with former MSP troopers regarding unworked overtime pay.
- Concluding two investigations related to the MBTA Transit Police, resulting in larceny charges against three former police officers.
- Launching a consolidated American Rescue Plan Act (ARPA) Resources page on the OIG's website and providing free ARPA training to nearly 500 students.
- Reviewing and providing input on the effects of over 100 pieces of legislation on the prevention and detection of fraud, waste and abuse.
- Welcoming two Dr. Frances Burke Investigator Fellows and our second Justice Geraldine S. Hines Legal Fellow.

Frequently Asked Questions

Q: Does Chapter 30B allow my jurisdiction to purchase supplies using a cooperative purchasing agreement?

A: Under certain circumstances, local jurisdictions may satisfy Chapter 30B requirements by purchasing supplies (but not services) using cooperative purchasing agreements. See [M.G.L. c. 30B, § 22](#). A cooperative purchasing agreement is a contract that has already been procured by an in-state or out-of-state political subdivision or state or federal agency (entity). Before using a cooperative purchasing agreement, a jurisdiction needs to determine if the entity that procured the contract did so in a manner that constituted full and open competition. *Id.* If the entity used a competitive process, then the contract may satisfy Chapter 30B. However, if the entity did not procure the contract competitively, or if you cannot determine what kind of process the entity used, then purchases under that contract likely would not meet Chapter 30B requirements. Our [Chapter 30B Manual](#) provides additional information to help you determine whether a purchase from a cooperative purchasing agreement will satisfy Chapter 30B.

Q: We are entering into a contract with a vendor that prefers a five-year contract. Under Chapter 30B, are we allowed to enter into five-year contracts?

A: Yes, but with a stipulation. [Section 12 of Chapter 30B](#) generally prohibits jurisdictions from entering into contracts that exceed three years. [M.G.L. c. 30B, § 12\(b\)](#). This limit includes any renewals, extensions or options. However, Chapter 30B allows a jurisdiction to enter into a contract that exceeds three years if a majority vote of its governing body authorizes it, before the jurisdiction awards the contract. See *id.*

Your jurisdiction should carefully consider the ramifications of a long-term contract, especially one requested by a vendor. While there may be some benefit to having a long-term contract in place with a responsible vendor, you should weigh the advantages against the potential for a change in market

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Frequently Asked Question (continued)

conditions that may make the contract more expensive in the long run.

Q: My town issued a request for proposals (RFP). We received a vendor proposal that included pricing options we did not request in the solicitation. Do we have to accept these options?

A: No. In fact, you *cannot* accept scope or pricing options for things that you did not include in the RFP solicitation. See [M.G.L. c. 30B, § 6](#). Chapter 30B requires that you choose the most advantageous proposal from a responsible and responsive offeror taking into consideration only price and the evaluation criteria that you set forth in the RFP. See *id.* at § 6(g). If a vendor embedded additional options in their proposal, then you must reject the vendor's proposal as being non-responsive. However, if the options are stand-alone items that do not impact the vendor's overall response, then you can accept the proposal, minus the additional options. You must make clear to the vendor, and in your procurement file, that the optional items provided by the vendor will not be considered and cannot be included in any final contract.

Q: A vendor delivered their bid package to our municipal building and left the package on the clerk's office counter. However, our bid solicitation required that vendors deliver their bid packages to a different office. The clerk's office received the bid before the deadline but did not deliver it to the correct office until after the bid deadline. Do we need to reject the bid?

A: Yes. You must reject the bid. Unfortunately, the vendor failed to comply with the delivery requirements, and the bid documents came into your possession after the specified deadline. Chapter 30B requires that you award the contract to the lowest responsible and responsive bidder. [M.G.L. c. 30B, § 5\(g\)](#). A vendor that does not deliver its bid within



the time and date you listed in your invitation for bids cannot be considered responsive. To be fair to the other vendors, to eliminate any appearance of impropriety that could lead to a bid protest, and to enforce your own specifications, you must reject the bid.

Q: Our city wants to purchase a piece of real property. Is there a limit to how much we can pay for the property?

A: Yes. [Section 14 of Chapter 40](#) of the Massachusetts General Laws prohibits cities from purchasing real property for more than 25 percent above the property's average assessed value during the past three years. [M.G.L. c. 40, § 14](#). Although the statute does not place the same limit on towns, they should still seek the best value for the jurisdiction and avoid overpaying for real property.

Obtaining the most up-to-date valuation of the property reasonably available, whether through a recent assessment or a professional appraisal, can help a city or town achieve the best value possible. Given how much the real property market can change, consider using valuations that are less than 90 days old as a best practice. Cities and towns must also follow the requirements in [Section 16 of Chapter 30B](#) of the Massachusetts General Laws for acquiring real property unless the municipality is acquiring the property under another statute, including by eminent domain (see [M.G.L. c. 79](#)) or using Community Preservation Act funds (see [M.G.L. c. 44B](#)). See [M.G.L. c. 30B, § 16](#).



Contact and Subscription Information



Contact the Massachusetts Office of the Inspector General

One Ashburton Place,
Room 1311, Boston, MA 02108

Phone

- Main Office (617) 727-9140
- Fraud, Waste and Abuse Hotline (800) 322-1323
- MassDOT Fraud Hotline (855) 963-2580
- MCPPO Training (617) 722-8884
- Chapter 30B Assistance Hotline (617) 722-8838
- Media Inquiries (617) 722-8822

Fax

- (617) 723-2334

Email

- Main Office
MA-IGO-General-Mail@mass.gov
- Fraud, Waste and Abuse Hotline
IGO-FightFraud@mass.gov
- MassDOT Fraud Hotline
MassDOTFraudHotline@mass.gov
- Chapter 30B Assistance Hotline
30BHotline@mass.gov
- Training/MCPPO Inquiries
MA-IGO-Training@mass.gov
- Employment Inquiries
IGO-Employment@mass.gov

Attorney General's Office

For questions related to public construction, public works or designer selection, please contact the AGO at (617) 963-2371



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