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The Commonwealth of Massachusetts

Office of the Inspector General

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November 4, 2020

The Honorable Steven T. James
Clerk of the House of Representatives
State House, Room 145
Boston, MA 02133

Dear Mr. James:

In compliance with Section 33 of Chapter 30 of the Massachusetts General Laws, the Inspector General respectfully submits five legislative proposals for the 2021-2022 session of the General Court.

1. The first proposal, *An Act Relative to Chapter 12A*, would amend the Office of the Inspector General's enabling statute. Based largely on the federal Inspector General Empowerment Act of 2016, Pub. L. No. 114-317, 130 Stat. 1595 (2016), the proposal strengthens the Office's ability to carry out its mandate to prevent and detect fraud, waste and abuse by clarifying that the Office has access to all records of a public body unless the General Court expressly references the Inspector General and specifically limits the Inspector General's right of access. The proposal also permits the Office to issue interrogatories in connection with its investigations and audits, as well as to refer a potential criminal matter to a district attorney in the same manner as a referral to the United States Attorney or the Attorney General. Under the proposal, an individual would be required to sign a certificate of compliance in response to a request for information or summons issued by the Office. Further, the proposal allows 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 removes the attendance requirement. The role of the Inspector General Council otherwise remains the same, including approving summonses to take testimony under oath. Finally, the proposal extends whistleblower protections to a complainant or informant who alerts the Office to potential fraud, waste and abuse of public dollars. Any person who violates this section would be subject to a fine and may be liable for damages.
2. The second proposal, *An Act Relative to Inspector General Annual Reports*, would consolidate the Office's annual reports into one, comprehensive report. Specifically, the

proposal would modify the date on which the Office's two embedded units – the Internal Special Audit Unit and the Division of State Police Oversight – submit their annual reports to the Legislature. Instead, these reports would be included with the Office's annual report required under Section 12 of Chapter 12A. Additionally, the Internal Special Audit Unit and the Division of State Police Oversight currently submit their annual reports to the Joint Committee on Transportation and the Joint Committee on Public Safety and Homeland Security, respectively. The proposal therefore provides for the Office to submit its consolidated annual report to these two committees.

3. The third proposal, *An Act Relative to Chapter 30B*, would increase a fine and make technical corrections to Chapter 30B, the Uniform Procurement Act. The technical changes update Chapter 30B to include correct statutory references based on recently enacted amendments to other statutes. The proposal also strikes a section of Chapter 30B that is duplicative.
4. The fourth proposal, *An Act Updating Chapter 30B*, would strengthen Chapter 30B, the Uniform Procurement Act, to promote best practices, fair competition and transparency. Specifically, the proposal would clarify certain definitions and remove certain exemptions that eliminate an awarding authority's responsibility to follow the procurement procedures in Chapter 30B. Further, the proposal would enhance the process for soliciting quotations, including clarifying that quotations cannot be negotiated, which would protect fair competition. Under the proposed revisions, moreover, awarding authorities would be able to use requests for proposals for procurements in the \$10,000 to \$50,000 range.

Further, the proposal requires an awarding authority to conduct a reasonable investigation to confirm that only one source exists when procuring utilities without following the statute's competitive procedures. During an emergency, if a procurement officer is unable to comply with Chapter 30B, the proposal states that, within 30 days of executing the contract, they must submit a copy of the emergency procurement record for publication in the Goods and Services Bulletin. If the emergency prohibits timely submission, the procurement officer must submit as soon as possible. In addition, the proposal clarifies that a procurement officer may reject or cancel a solicitation if it is in the best interest of the awarding authority and the procurement officer documents the reason for the rejection or cancellation. When acquiring or disposing of real property, the proposal mandates that an awarding authority require an individual submitting a bid or proposal to sign a certificate of good faith. The proposal also clarifies that an awarding authority may enter into a contract for any period of time as long it serves the best interests of the governmental body and does not conflict with any other statute.

The revisions would also permit awarding authorities to use in-person and electronic auctions to dispose of supplies. Under the proposal, 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. When disposing of real property, moreover, the proposal would require awarding authorities to

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use updated property valuations. During an emergency that requires acquiring or disposing of real property, if an awarding authority is unable to follow the statute's requirements, the proposal mandates submission of the emergency contract to the Central Register, within 30 days, unless the emergency prohibits submission. Similarly, if an awarding authority disposes of property for a price below the determined value, notification of the disposition must also be placed in the Central Register within 30 days. In addition, the proposal would add investigatory expenses to the costs and penalties that can be assessed for a violation of Chapter 30B. Finally, the Office would be permitted to promulgate regulations related to the enforcement and interpretation of Chapter 30B.

5. The fifth proposal, *An Act Relative to Public Employee Time Fraud*, protects municipalities, counties and the state when public employees submit false or fraudulent claims for hours worked. Under the proposal, public employees would be liable for damages and penalties for submitting false or fraudulent claims for hours they did not work.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Respectfully,



Glenn A. Cunha
Inspector General