



THE COMMONWEALTH OF MASSACHUSETTS
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October 30, 2025

VIA E-MAIL

Michael Leung-Tat
General Counsel and Deputy Auditor
Office of the State Auditor (OSA)
Michael.Leung-Tat@massauditor.gov

Dear Michael:

I write concerning several outstanding inquiries and to respond to a letter directed to our office by the Auditor of the Commonwealth.

As we have discussed, the Attorney General's Office continues to have significant concerns and unanswered questions relating to OSA's proposal that a private individual be permitted to fund a Special Assistant Attorney General (SAAG) to represent the OSA in proposed, but unspecified, affirmative litigation against the Legislature. The arrangement appears to exceed OSA's statutory authority (which does not empower your office to accept gifts), and, at the very minimum, gives rise to serious concerns under the state ethics law. We have asked you to provide information necessary to allow us to evaluate those issues, which may now be further complicated by the individual's declared candidacy for statewide office. We have also indicated that OSA may share with us any opinion from the State Ethics Commission that authorizes the proposed arrangement. No material information has been provided to date.

We do note that OSA has now limited the scope of its audit to certain enumerated issues (i.e., contracting and procurement procedures, non-disclosure agreements, and the balance-forward line item), and has tabled further pursuit of issues addressed in OSA's October 2024 audit (which included the legislative process and committee appointments). We understand that OSA believes these enumerated matters to fall outside any constitutionally protected legislative privilege.

Nevertheless, we anticipate that if the matter is litigated, OSA will have to take a position on the existence and scope of the legislative privilege. The issue will be core in the case, even if OSA does not affirmatively raise it; and, as we have explained in prior correspondence, a judicial decision on this issue affects state government beyond OSA,

including the AGO itself. We reiterate our ask that OSA share the position now that the courts will demand of it if and when any litigation is filed.

We likewise reiterate our request that OSA disclose to us the cause of action it intends to bring and the defendants it intends to sue. As we have shared time and again, authorizing a lawsuit by one part of state government against another is exceptionally rare; and it is rarer still when constitutional and separation of powers issues are implicated. The AGO will not authorize the filing of a lawsuit, or the appointment of a SAAG to handle that lawsuit, without a concise and specific description of the intended claims, such that our authorization, if given, can be limited to precisely such a suit. If litigation is authorized, the authorization will ensure that only legal disputes, over which litigation is the only potential resolution will proceed into court. Political disputes, by contrast, are not appropriate for judicial resolution; and the AGO will not delegate its authority in a way that unnecessarily drags the judiciary into political disputes among the branches of state government.

These are straightforward requests that are routinely satisfied by state agencies requesting authorization to file litigation. Never before have they been met by the odd suggestion that the AGO must initiate its own lawsuit to obtain answers. Lest there be any confusion, let us state without qualification: we will file no such lawsuit. Until you provide the information routinely provided by agencies, including the OSA, seeking authority to file suit, no legal dispute is ripe and no SAAG will be appointed.

We look forward to your response.

Very truly yours,

A handwritten signature in blue ink, appearing to read "M. Patrick Moore Jr." The signature is fluid and cursive, with "M." and "Jr." being the most distinct parts.

M. Patrick Moore Jr.
First Assistant Attorney General