

MEMORANDUM

June 14, 2011

TO: Audit Committee

FROM: Sue Richards, Senior Legislative Analyst *SR*
 Leslie Rubin, Legislative Analyst *LR*
 Office of Legislative Oversight

SUBJECT: Updates from the Office of the Inspector General and the Office of Internal Audit, LFRD Audit Contract, and County Government Fiscal Monitoring Standards

On June 16th, the Audit Committee has four agenda items. The tables below summarize the items, the recommended time for the Committee's discussion and the participants expected to attend the worksession.

Item #	Topic	Suggested Time	Discussion on page -	Materials on © page
1	An update from the Office of the Inspector General	10 minutes	2	1
2	An update from the Office of Internal Audit	10 minutes	2	NA
3	Review of Contracting for Annual Audit of the Financial Statements of the LFRDs	10 minutes	3	NA
4	County Government Fiscal Monitoring Standards and Vendor Requirements in Select Departments – Briefing from the Department of General Services	1 hour	4	4

Item #	Department/Office	Executive Branch Staff
1	Office of the Inspector General	Edward L. Blansitt III, Inspector General
2	Office of Internal Audit	Larry Dyckman, Manager
3	Montgomery County Fire and Rescue Services	Richard Bowers, Fire Chief
4	Department of General Services	David Dise, Director Pam Jones, Chief, Office of Procurement

A. Status Reports

Items #1 and #2: Updates from the Inspector General and the Office of Internal Audit

The Committee will receive updates from the Inspector General, Edward L. Blansitt III, and the manager of the Office of Internal Audit, Larry Dyckman. This is the Inspector General's first Audit Committee meeting since his appointment by the Council in April. A copy of the Inspector General's remarks is attached at ©1.

B. Decision and Discussion Items

Item #3: Review of Contracting for Annual Audit of the Financial Statements of the LFRDs

Background. Currently, the Council employs an outside audit firm, Rager, Lehman & Houck, P.C. (Rager), to perform an annual audit of the financial statements of the 18 local fire and rescue departments (LFRDs) detailing County Government and State grant funds received by the LFRDs. Rager audits the financial statements and identifies issues of concern regarding LFRD accounting practices through management letters.

Rager currently is undertaking work related to the audit for the year ending June 30, 2011 (the FY11 audit). Rager is in the final year of its four-year contract cycle with the Council, ending on August 28, 2012, and will receive \$95,000 under its contract with the Council for its work related to the FY11 audit.

In FY11, the Council appropriated roughly \$5.4 million in Fire Tax District funds to the LFRDs. During the FY12 budget process, the Council changed its approach to LFRD funding. Specifically, it:

- Appropriated \$1.06 million to the Montgomery County Fire and Rescue Services (MCFRS) so that MCFRS could pay directly for certain goods and services previously paid for by the LFRDs;
- Reduced the appropriation to the 18 LFRDs to just over \$412,000; and
- Expressed the intention to not appropriate County Government funds to the LFRDs in FY13.

At the same time, Resolution 17-149, the Council's approval resolution for the County Government FY12 Operating Budget, requires each LFRD to report quarterly to MCFRS on the expenditure of the County tax funds, and requires MCFRS to develop a reporting process to ensure compliance.

2011 Request for Proposal. This August the Office of Legislative Oversight (OLO) is scheduled to issue a request for proposal (RFP) seeking new proposals from audit firms for all of the Council's external audit work. From the proposals received, the Council will select a firm to contract with for the Council's audit work for up to four one-year periods. The first year of any new contract will be for the audit of funds appropriated in fiscal year 2012.

Typically, the RFP would include a request for proposals related to the audit of the financial statements of the LFRDs. However, given the significant decrease in funds appropriated to the LFRDs in FY12, the current cost of the audit work, and the Council's stated intention to eliminating this funding in FY13, staff recommends that the Council not seek proposals for an audit of the LFRD financial statements for FY12 and beyond.

Staff Recommendation: Staff recommends that the Committee not seek a bid for audit work on the financial statements of the local fire and rescue departments in the request for proposal scheduled for release in August 2011.

Item #4: MCG's Fiscal Monitoring Standards including Vendor Requirements for Contractors

Background. Sturdy fiscal monitoring and contract practices administered by trained contract managers are critical to ensuring that Montgomery County Government departments get what they pay for. Improper invoicing, improper payments, missing or incomplete records and under or over spending are some of the issues that established fiscal monitoring policies and practices commonly address.

Regular oversight studies with periodic testing of contract documents help ensure that the systems and practices put in place by Montgomery County departments to monitor contract compliance and process contract payments are soundly designed and working effectively. Beginning in 2008, reports by the Office of the Inspector General identified weaknesses in DHHS' contract administration practices. In response to those reports the County Council held a forum with DHHS vendors in late 2009 and DHHS convened a Fiscal Monitoring Workgroup.¹

In March 2010, the Audit Committee received a briefing on the work of DHHS' Fiscal Monitoring Workgroup about best practices for fiscal monitoring, different fiscal monitoring models, and training needs to build the business and fiscal capacity of nonprofit vendors.² In response to this DHHS briefing, Councilmember Navarro requested a followup discussion about fiscal monitoring standards in other County Government departments, with a particular focus on two items: the contract administration and vendor requirements that exist in non-DHHS departments; and opportunities that exist to standardized invoice review, payment practices and vendor requirements across departments.

Since the authority for managing County Government contracts is decentralized and the purpose and scope of contracting activity vary by department as well, the Department of General Services will provide a powerpoint briefing about contract administration and monitoring practices in the County Government to frame today's discussion. The presentation is attached at ©4. Briefly, it addresses:

- The magnitude and distribution of contract activity (\$836 million in FY10) among County Government departments;
- The roles and responsibilities of using department contract administrators and contract monitors;
- The major types of contracts and the level of risk associated with each contract type;
- Best practices; and
- The resources and training the Office of Procurement currently offers, plus additional training needs.

After the presentation, staff suggests the following questions to help structure the Committee's discussion:

1. What opportunities exist to standardize practices for invoice review, payment practices and/or vendor requirements across departments? Are there opportunities to standardize practices across departments by contract type?
2. Does the County Government need a written manual of invoice review and payment practices?
3. What opportunities exist to strengthen DGS oversight to ensure departments have proper internal controls for their fiscal monitoring standards?

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¹ See the OIG website (<http://www.montgomerycountymd.gov/oigtmpl.asp?url=/content/InspectorG/igproduct.asp>).

² The Workgroup report is at ©10 of the Audit Committee's March 12, 2010 worksession packet: (http://www.montgomerycountymd.gov/content/council/pdf/agenda/cm/2010/100316/20100316_MFPAUDIT1-2.pdf.)

**Montgomery County Maryland
Presentation before the Audit Committee
Edward Blansitt, Inspector General
June 16, 2011**

Chairwoman Navarro and members of the Committee, it is my pleasure to appear before you for the first time in my tenure as your Inspector General to provide a brief status report on the Office of Inspector General (OIG).

As you know, the Council appointed me to become the County's third Inspector General on April 26, 2011, just as the very difficult and lengthy FY 2012 budget deliberations were demanding serious Council attention. Since that time I have worked to introduce myself to County government leaders and familiarize myself with operations.

Meetings with County Leaders—

By the end of next week, I will have met individually with

- each member of the County Council,
- the County Executive,
- the State's Attorney,
- the Chief Administrative Officer,
- the heads of most major County Departments and
- many staff members.

An objective of these meetings has been to introduce myself and my approach to audits and investigations. The meetings also help me understand each leader's interests and concerns as they relate to programs funded by the Council.

Through meetings with Department Heads, I am establishing productive working relationships and gaining an understanding of operations that is valuable in development of the OIG audit plan.

Completion of Work-In Progress—

In addition to meeting with key individuals, my immediate focus upon taking office was to understand the status of work in progress within the office and develop an approach to address each matter.

Reviews--

As of the date of my appointment, the OIG website identified three reviews that, although largely completed, were still in progress. I have retained an experienced outside auditor to complete the work related to two of those reviews and expect those efforts to be completed within the next 60 days. Further action related to the third review is pending a decision by the Maryland Court of Appeals.



Allegations and Complaints—

My initial effort was to work with the Assistant Inspector General to sort through the complaints and initiate appropriate action.

The office had 70 complaints and allegations to be addressed, some of which dated back more than one year.

- 45 of these had either been initially reviewed or were the subject of preliminary inquiries and were awaiting further action
- 25 were pending review in the “IG” email inbox or recently received through the OIG hotline.
- Some complaints did not provide enough information to be evaluated or did not identify any waste, fraud or abuse, misconduct or violations of rules, regulations or laws.
- Some complaints are not actionable by the OIG in that they appeal decisions made by appropriate County officials, the School Board or the Courts.
- Some complaints relate to issues appropriately handled by other County organizations such as the Office of Risk Management or the Ethics Commission. These were forwarded to the appropriate organization.
- The majority of complaints relate to issues of employee misconduct. These range from minor matters such as spreading rumors about other employees or managers orally abusing employees, to serious issues such as employees using county vehicles without authorization.

As you are aware, regardless of who investigates the allegations, it is ultimately management’s responsibility to identify and take action related to misconduct issues. Accordingly, I have coordinated with and advised the County’s Chief Administrative Officer that the OIG will refer such cases to the responsible managers for review and resolution.

The more serious misconduct issues are being referred to management with the request that the OIG be advised within 30 to 60 days, of the findings related to the matter and, if appropriate, the administrative action taken.

The OIG will conceal the identity of the complainant, monitor the status of these complaints and take further action where appropriate.

Allegations of misconduct by top level executives will continue to be investigated directly by the OIG.

New audits and Investigations

Some of the complaints received identify issues that are more appropriate subjects for audits.

In the case of the various complaints related to misuse of county vehicles, my concern was that the policies and procedures used to determine the number of vehicles needed by the County departments and the controls governing the use of those vehicles might be either inadequate or ineffective. Because the OIG already had a related inquiry underway, I decided to request data from the Fleet Manager and advise her and her superiors of our intent to conduct an effectiveness and efficiency review of the County light vehicle fleet allocation and usage.

I believe this review will complement the efforts of the Council related to “take home vehicles” but has broader objectives and extends to a larger number of vehicles.

I am also in the process of making inquiries regarding a limited number of other allegations. Depending upon the information developed, these may become either full investigations or audits.

I have a small number of audits in the planning stages and am in the process of acquiring the staff and/or contractor resources necessary to perform the work while still completing investigations.

Four Year Audit Plan:

Finally, I am in the process of developing a four-year audit plan that will focus on evaluating the effectiveness of operating policies and procedures, and identifying duplication and overlap between activities, as well as potential savings. You have given the Inspector General full discretion to select the audits to be performed by the office. However, I believe audits are most useful when they either address concerns or respond to a need from decision makers for accurate objective information. For these reasons, I welcome this Committee’s input regarding audit work you would find useful.

This concludes my prepared update regarding the OIG activities.

I welcome your questions or comments.

Contract Monitoring in Montgomery County

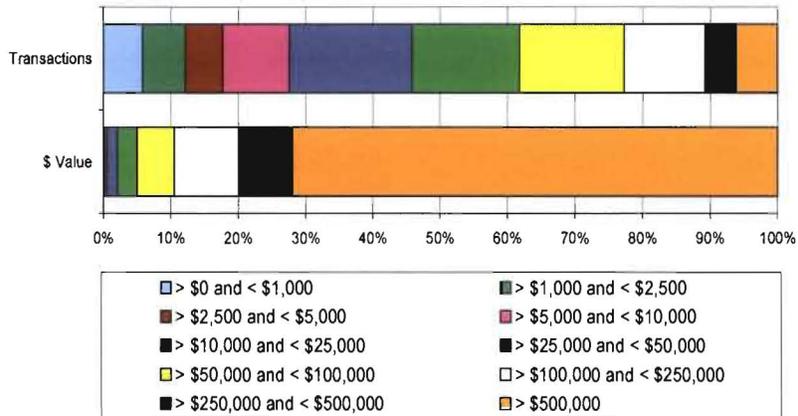
1. Background
 - Stats, contract types, purchasing profile
2. Responsibilities
 - Department, Contract Administrator, Contract Monitor
3. Contract Types
4. Best Practices
5. Available Resources

Purchasing Background

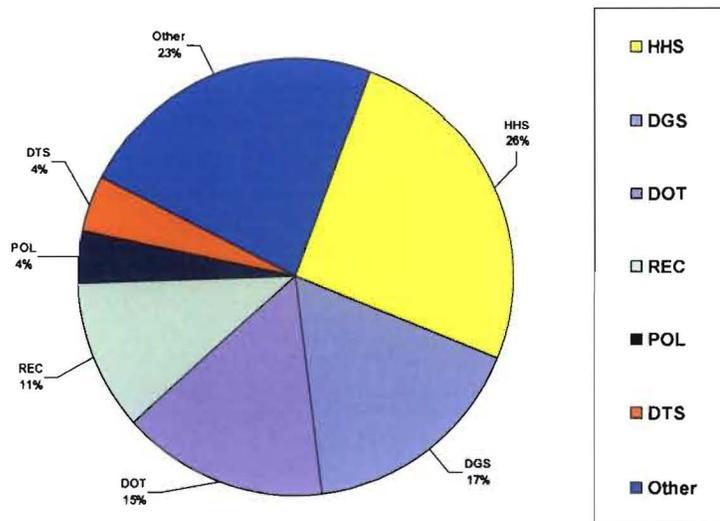
- FY09 - \$899,113,817
- FY10 - \$835,873,535
- Avg. 2,400 active contracts
- Avg. 4,250 Purchase Orders per year (4,340 in FY10)
- Avg. 7,500 procurement “actions” per year
- Transaction-to-Value (80/20 Rule)

Amount	% Total POs	% Total Dollars	Actual \$\$\$
<\$10,000	~27%	~0.5%	\$4,348,177
\$10K-\$100K	~50%	~10.0%	\$83,498,338
>\$100K	~23%	~89.5%	\$748,027,019
			\$835,873,535

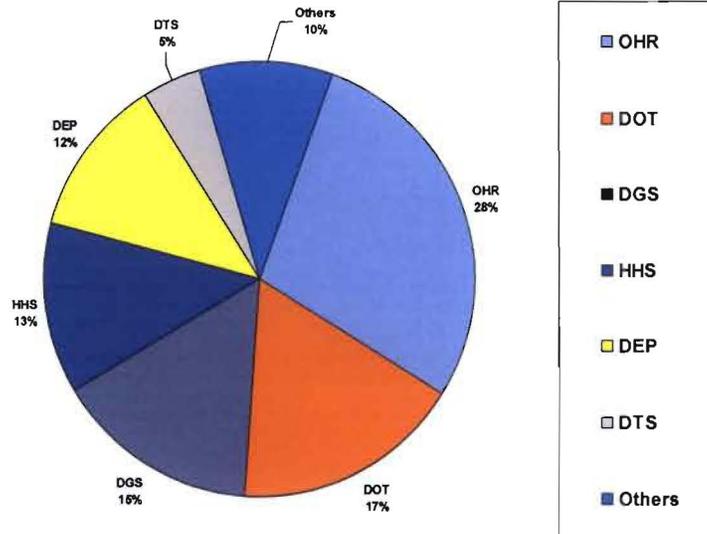
Purchase Orders by Dollar Range



Number of Contracts By Department



Contracting Dollars by Department



General Conditions of Contract; The Contract Administrator

The **Contract Administrator** is the department representative and...

- Serves as liaison between the County and the contractor;
- Gives direction to the contractor to ensure satisfactory and complete performance;
- Monitors and inspects the contractor's performance to ensure acceptable timeliness and quality;
- Serves as records custodian for this contract, including wage and prevailing wage requirements;
- Accepts or rejects the contractor's performance;
- Furnishes timely written notice of the contractor's performance failures to the Director, Department of General Services, and to the County Attorney, as appropriate;
- Prepares required reports;
- Approves or rejects invoices for payment;
- Recommends contract modifications or terminations to the Director, Department of General Services;
- Issues notices to proceed; and
- Monitors and verifies compliance with any MFD Performance Plan

Contract Monitors

- Not a formally identified role (as the CA is)
- Perform certain CA duties with CA oversight
e.g.; HHS Program Staff and DGS & DOT
Project Managers act as CM's under CA's
- Cannot perform official duties assigned to CA
such as,
 - Act as official custodian of records
 - Formally accept or reject performance
 - Authorize contract modifications, cures or terminations

Procurement Regulations; Using Department Responsibilities

- Establishing Payment Provisions
 - Payment provisions should objective
 - Partial payments may not exceed the value of performance
- Fiscal Responsibilities
 - All payment authorizations
 - Obtaining prompt payment for the contractor as required by contract
 - Certifying contractor performance
 - Inspection and acceptance of goods or services prior to certification of payment
 - Prohibitions:
 - Certifying invoices containing more hours than actually worked,
 - Payment provisions different than the contract, or
 - Charges against a different contract

Contract Types

- **Fixed Price**
 - provides for a firm price under which a contractor bears full responsibility for profit or loss (Lump Sum or Unit Price).
- **Definite Quantity Contract**
 - A Fixed Price contract under which quantity of goods, services, or construction are specified but may not be purchased all at once
- **Cost Reimbursement Contract**
 - contractor is reimbursed for costs that are allowable, plus a fixed fee, if any (Cost Plus Fixed Fee).
- **Requirements Contract**
 - goods, services, or construction covering long-term requirements, used when the total quantity required cannot be definitely fixed, but may be stated as an estimate or within stated limits (Indefinite Delivery/Indefinite Quantity, or IDIQ).
- **Incentive Contract**
 - provides for cost reimbursement or fixed price incentives by (a) establishing “reasonable and attainable” targets, that (b) motivate contractor efforts and discourage inefficiency and waste

Contract Types

Contract Type	Monitoring Risk	Examples	Dept.
Fixed Price	Low	Construction, studies, software, electronic document management system, consulting	DGS, DOT, DTS, all...
Definite Quantity	Low	Software maintenance, Fire and Explosives Investigation Tactical Robots, dump trucks	DGS, DTS, FRS, all...
Cost Reimbursement	High	Emergency Financial Assistance and Support to Low Income Households, Services to aid County residents who are blind or visually impaired	HHS, DHCA
Requirements	Medium	Office supplies, landscaping services, vehicles, library materials, recreation supplies, snow removal	DGS, DOR, DOL, DOR, all...
Incentive	Medium	FiberNet Systems Integrator, Professional and Technical Support under DCM, Employment-Related Services (Job Readiness, Placement Retention Services for Target Population)	DTS, OHR, HHS

Best Practices

County

- Be familiar with each contract's terms governing performance and payment, and assess level of effort
- Pre-performance meeting
- Clarify role of CA and CM
- Invoice approval should only occur after a 3-way match
- Thoroughly document contractor performance
- Deal with issues before they become problems

Contractors

- Understand contract terms governing performance and payment
- Identify and know CA and CM roles and authority
- Communicate with CA (or CM)
- Maintain clear and accurate records (performance & payroll)
- Submit complete invoices with supporting documentation (packing slips, weigh tickets, payroll or time records, etc.)

Resources and Training

Contract Administration training resources available from Procurement:

- Online (Internet and Intranet) resource materials
 - Procurement Guide
 - Various check lists (<http://portal.mcgov.org/apps/procurement/forms.asp>)
 - Document templates
 - ERP purchasing system user tips
 - Contract register
 - Environmentally Preferred Product purchasing guidelines
 - Local vendor database
- Contract Administrator Training
 - 5-day course (in partnership with County Attorney)
- Contract Administrator Forum
 - Started in FY11, 3 times per year
 - Training, trends, best practices on various topics directly related to CA needs
 - CA networking
 - Online Q&A
- Additional training needs identified
 - Invoice review and payment will be added to CA training schedule but should be offered to all employees reviewing invoices (3-way match, detecting fraudulent invoices)
 - Inspection and acceptance of goods and services
 - Dealing with problems and cures
 - Negotiations