MONTGOMERY COUNTY MARYLAND

OFFICE OF THE INSPECTOR GENERAL

Office of the Inspector General

Report on Implementation of Work Plan and Budget for Fiscal Years 2012-2013

Reflecting Accomplishments of
Edward Blansitt as Inspector General
April 2011 through June 2013

June 11, 2013

OFFICE OF THE INSPECTOR GENERAL

TO THE COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

I am pleased to transmit documents relating to my time in office since the date of my appointment to the position of Inspector General (IG) on April 26, 2011 through the end of my second year.

Beyond the goals, authorities and duties stated in Montgomery County Code Section 2-151, it is my position that the greatest value an Inspector General can provide is the development and communication of consistent, objective, accurate and timely information to decision-makers at all levels for their use in ensuring the integrity, effectiveness, and efficiency in government.

During my two years in office my staff and I have developed strategies, plans and goals that we hoped would assist us in developing and providing such information. While we have not satisfied all of our own expectations, I am encouraged by what we have accomplished to date. We have a foundation in place that I believe will allow us to improve going forward.

I am sincerely grateful to the members of the IG staff who have contributed their talent, versatility and dedication in conducting our work and shaping our office, as well as to the members of the IG informal Advisory Group and the interns who have served as volunteers to further the mission of our office. I also appreciate the cooperation and courtesies extended to my office by the staffs of the County Executive, the County agencies for which we also have oversight responsibilities, and the Council.

Finally, I thank the Council for the opportunity to serve and will appreciate the opportunity to continue serving as the Montgomery County Inspector General if reappointed to serve a full four-year term beginning July 1, 2013.

Respectfully submitted,

Edward L. Blansitt III
Inspector General
June 6, 2013

Message from the Inspector General - Executive Summary

The County Council appointed me as Inspector General on April 26, 2011 to complete the unexpired four-year term of retired Inspector General Thomas Dagley. In August 2011, I presented a work plan for fiscal years 2012-2013 that presents an operating strategy, work plan, and projected budget for the period covered by my tenure in this term. This message presents a summary of our significant activities for the period of slightly over two years as they relate to that work plan.

Initiatives

Our work plan described five ongoing initiatives we undertook during the period: (1) *form an informal Inspector General advisory group (see Appendix A),* (2) *convert operation of the OIG fraud hotline from a fully contractor-supported activity to a fully staff-supported activity,* (3) *use contract audit support to conduct specific performance audits,* (4) *leverage resources (see the listing of FY 2012 referrals Appendix B),* and (5) *proactively identify opportunities for improvement.* We are pleased with the accomplishments relative to each initiative that are detailed in this report. I am especially pleased to have formed and held quarterly meetings with our IG Advisory Group, a body of talented County citizen volunteers who have provided us their independent advice on a variety of issues, including current and future work plan topics.

Complaint Processing and Resolution

Approximately 135 new complaints were recorded in the two-year period, 73 of which were closed following our intake review, 37 (including 5 of the issues that resulted in specific audits and investigations) of which have been reviewed and/or referred and are now completed, and 25 of which are in progress as reviews, inquiries and referrals.

Specific Audit/Investigative Issues

We completed seven audit and investigation reports and have five additional significant reviews in progress that collectively address ten of the thirteen issues identified in our FY 2012-2013 Work Plan.

- **Non-public safety vehicle fleet acquisition and management.** This was addressed in our first report, entitled *Review of the Vehicle Management Practices of the Fleet Management Services Division's Administrative Vehicle Light Fleet* (November 2011).
- **The Ethics Commission's procedures and effectiveness.** This was addressed in our report entitled *Review of Certain Montgomery County Ethics Activities* (April 2012).

- **Financial information provided by Montgomery County Public Schools in support of funding decisions regarding annual operating budgets.** Our related report is entitled *Evaluation of Budget and Financial Information Provided by Montgomery County Public Schools* (January 2012).
- **Selected property acquisitions and related payment transactions including purchase cards.** Our related report is entitled *Office of Human Rights' Management of Purchasing Cards and Space Renovation* (May 2012).
- **Internal controls over the Public Library collection acquisitions.** Our related report is entitled *Review of the Montgomery County Public Libraries Collection Management Procurement Internal Controls* (October 2012).
- **Selected real property tax collections and related matters.** Our related report is entitled *Review of Montgomery County Commercial Property Tax Assessments* (January 2013).
- **Selected service contract awards and oversight.** Our report addressing this work plan topic is entitled *Administration of Montgomery County Department of Transportation Tree Planting Services Contracts* (April 2013). The work was undertaken in response to credible allegations of mismanagement of specific contracts.
- **Selected payments, possible improper payments, and related controls.** Our review of the Department of Liquor Control, currently in progress, will employ data analytics to address these and other topics.
- **Implementation of technology initiatives.** Our review of the Department of Permitting Services, currently in progress, will employ data analytics to identify anomalies and possibly performance issues in the Department's non-accounting database.

We also completed specific Inquiries that did not result in recommendations, but which nonetheless addressed important concerns and work plan topics.

- **Selected construction topics.** Our related review is entitled *Allegations of Failure to Discharge Statutory Duties by the Montgomery County Department of Permitting Services Regarding Construction Work on the "Monty" Project* (February 2013). This review was undertaken based on allegations of irregularities.
- **Auditor independence.** We addressed the independence of Clifton Larson Allen in providing non-audit services to the County while auditing the County's financial statements in our report: *Conclusion on Clifton Larson Allen Independence* (July 2012).

In addition to the reviews of the Department of Liquor Control and DPS cited above, three additional reviews - a review of the data provided by EDF data, a review of the MCPS acquisition of interactive whiteboard technology, and a review related to the Silver Spring Transit Center - are in progress, as are 17 inquiries and three referrals.

We did preliminary work related to the remaining three planned work plan topics, but ultimately decided not to pursue or issue reports addressing those topics:

- **Revenue collections and related controls.** We initiated a review of the implementation of the bag tax and a review of residential tax credits. After completing our survey work and meeting with County and State officials we concluded it was unnecessary to issue that formal written report because County officials were in process of making sufficient efforts to address our concerns.

- **Reviews of housing programs.** We received several complaints related to the Housing Opportunities Commission and the Department of Housing and Community Affairs for which we conducted inquiries and held discussions with the Department and Commission staffs. We obtained appropriate results through referrals to management without conducting detailed investigations.
- **County enforcement of prevailing wage laws.** We met with a County official responsible for enforcement of the wage laws to understand the enforcement procedures and we discussed the relative priority of this topic with the IG Advisory group. The group agreed with our decision not to perform an audit related to this topic assuming no credible complaints about this matter are received.

Organizational Improvements

In addition, we accomplished three important organizational improvements:

- Development of a survey sent to all Montgomery County employees to obtain a baseline of employee awareness related to the existence of and attitudes toward the Office of the Inspector General (see Appendix C).
- Significant modification to the Inspector General's web site needed to conform to County-wide standards, to incorporate requests for certain improvements, provide greater accessibility for the disabled, and to support the County's "Open Montgomery" initiative (see Appendix D).
- Development of a comprehensive Manual for Audits and Investigations that incorporates relevant information from procedures manuals created by my predecessors but also incorporates our specific methodology as well as the most recent authoritative standards and guides (see Appendix E).

Future Direction

Topic Areas

In addition to unanticipated issues arising from complaints, I plan to increase our office's focus on two areas: Acquisitions and Procurements, and Accountability of County Government, County Agencies, employees and others receiving Montgomery County funds.

Data Analytics

To improve our ability to focus on the issues cited above, our intent is to use data analytics to the fullest extent possible in our future activities. The County's transition to Enterprise Resource Planning has increased availability of online databases which, when coupled with the advances in data analytics software, presents significant opportunities for detecting waste fraud and abuse through rigorous analysis of data sets. Data analytics allows auditors to test 100 percent of available data rather than just a smaller statistical sample. Because data analytics are designed to seek out anomalies, the tools are more appropriate for the detection of such "needles in a haystack" as fraud than are the more typically employed judgmental and statistical sampling methods.

In addition, investment in data analytics programs should, over time, prove to be highly cost effective. Once data sets have been identified, put in proper form for analysis, and access scripts created and refined, analytic testing can be reapplied to data in future time periods to provide for continuous or repetitive monitoring of the activities of that program.

We currently have two reviews in progress that are based on development of data analysis tools. The progress of these reviews may be slow - industry experience shows that the introduction of these programs can take years - but the return on investment can be significant. Proponents argue that data analytics represent the future of auditing.

Conclusion

The accomplishments described in this report evidence that during the past two years this office has contributed to the continued improvement of County government.

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OIG Accomplishments Relative to FY 2012-2013 Work Plan

Status of OIG Initiatives

Form an Informal Inspector General Advisory Group. *The group first met in May 2012; quarterly meetings have been held since. In October the group provided independent recommendations of priority audit topics the IG should consider in implementing the work plan.*

We actively sought resumes from interested County residents and selected six members to serve in the initial group (see Appendix A). This diverse and impressive group, from both the public and private sectors, offers backgrounds in management, information technology, financial, audit, and legal disciplines. The inaugural meeting was held May 14, 2012 in the offices of the Inspector General in Rockville. Following the initial meeting in FY 2012, quarterly meetings were held during fiscal year 2013.

In the first meeting, we shared each team member's background and skills. We also reviewed the group's Charter. In the second and third meetings, we agreed on ways the group might best help further the mission of the OIG. The group's initial charge was to consider issues generated from various sources, and provide independent recommendations of the priority audit topics the IG should consider in implementing the FY 2013 work plan. The group members separately held one conference call without OIG participation to discuss their independent recommendations related to the OIG work plans. A second conference call was made in October, 2012 to discuss their recommendations with me and the OIG staff. Their recommendations, which were formally provided by the group in a memo dated October 12, 2012, were incorporated into my presentation to the Council Audit Committee in November, 2012 and are being considered as our work and planning progresses.

Individual members of the Advisory Group have separately provided technical advice and assistance in in such efforts as developing preliminary plans for a review using data analytics and reviewing applicants for a vacant OIG position. The assistance of these individuals has been valuable and is greatly appreciated.

Convert Operation of the OIG Fraud Hotline from a Fully Contractor-Supported Activity to a Fully Staff-Supported Activity. *Completed action.*

The fraud hotline, established in late 2006, was operated by a contractor located in Georgia, using a toll free "800" number for the hotline. The primary advantage of this contract was that the contractor's could accept calls in over 100 different languages and could accept calls 24 hours per day, seven days per week. Reports on the complaints received by the contractor were provided electronically and stored in a web-based case management system.

From the inception of the fraud hotline in December 2006 through the expiration of the contract and our discontinuation of the service, fewer than 250 complaints were received. Since the OIG paid a fixed monthly fee for the service, our cost over the life of the contract averaged approximately $200 per complaint. Although the contractor provided the ability to receive hotline complaints in many languages, 24 hours per day, we had no indication that any callers had reported complaints outside normal business hours or required language assistance to file their complaints.

Most importantly, the information collected by the hotline contractor was limited and often did not provide sufficient information to determine appropriate action. During FY 2011, the OIG received a total of 43 incident reports through the Hotline. Sixty-three percent of the incident reports were anonymous, which, while completely acceptable, increased the difficulty of investigating the issues raised in the complaint.

Based on our evaluation of the costs versus the benefits of having the contractor operate our fraud hotline, we concluded that it is more effective and less costly to assign OIG staff to operate our hotline.

To that end we obtained a new Montgomery County "hotline" email address (reportfraud@montgomerycountymd.gov) and phone number (240-777-7644 or 777-7OIG) that rings in the OIG office to be answered by staff during business hours and forwarded to a cell phone assigned to an OIG employee after normal business hours. We are able to routinely answer calls in both English and Spanish. We have not yet needed to make arrangements to translate complaints from speakers of other languages, but we would use the County Government's language resources, if necessary.

Since discontinuing the use of the hotline contract in December, 2011, we have received numerous calls to both the hotline and the main OIG office phone number (240-777-8240). The number of incident reports we received to date in FY 2013 is over 50 percent higher than the total received in FY 2011, and the quality of information we have been able to develop through contacts with the complainants has significantly improved.

A small number of voice mail messages have been left on the main office number from calls received after normal business hours. My examination of our detailed cell phone records for the past 12 months found that no calls were forwarded from the hotline number to the cell phone.

Nonetheless, I recognize the need to increase our efforts to make stakeholders aware of our hotline, and, in fact, of the existence of the Office of the Inspector General. In a survey of Montgomery County employees conducted during the spring of 2013, almost 35 percent of more than 1000 respondents indicated they were unaware Montgomery County has an Inspector General.

Use Contract Audit Support to Conduct Specific Performance Audits. *As necessary and cost effective, we have supplemented staff with qualified external audit contractors where specific expertise is required or where additional resources are needed in order to address urgent matters.*

We have employed a number of specialists to help us achieve our goals including:

- We engaged one CPA with experience in fleet management audits to assist us in performing the field work on our review of the County's management of the non-emergency light fleet. A final report was issued in November 2011.
- An individual experienced in operations and information technology management performed the field work on our review of the Office of Ethics. A report was issued in April 2012.
- An independent CPA assessed Clifton Larson Allen's audit independence following the recordkeeping assistance that firm provided to the County. A final report was issued in July 2012.
- An arborist we engaged analyzed evidence provided by a complainant in our investigation of the Administration of Montgomery County Department of Transportation Tree Planting Services contracts. A final report was issued in April, 2013.
- We engaged a specialist to develop data analytics tools to identify anomalies in the Department of Permitting Services database (ongoing work).
- We engaged a specialist to develop data analytics tools to identify anomalies in the data related to the Department of Liquor Control (ongoing work).

I plan to continue using Subject Matter Experts as needed for specific audits and investigations.

Leverage Resources. *As appropriate, we have referred specific complaints to State agencies or managers of County agencies who are ultimately charged with the task of implementing changes in response to our findings and recommendations. This approach enhances our mutual understanding of the issues without sacrificing our independence or objectivity.*

In May 2011, we initiated a formal process of referring specific issues, where appropriate, to the County's Chief Administrative Officer, or to County agencies or State agencies for resolution. Prior to making any referral, we usually perform sufficient preliminary work to ensure the allegation merits further investigation, and that we provide reasonable information with which the investigation can be continued.

In most cases, we request a response by a certain date. In all cases, we reserve the right to follow up. For minor management issues brought to our attention that are not appropriate for our review, we may refer the matter without specific request for response.

During FY 2011 through FY 2013 we referred 25 matters for which we requested a formal response and received responses to 22 of these matters. Descriptions of referrals identified in the FY 2012 Annual report are presented in Appendix B.

Our approach to discussion and issuance of draft reports and our follow-up on recommendations is an important part of this effort. Despite the fact that the discussions of drafts and our requests for subsequent information may in some cases delay the issuance of an OIG report, the effect on the ultimate goal of effecting improvement has been positive.

> ***Proactively Identify Opportunities for Improvement.*** *Held meetings with elected County Officials, with high-level and mid-level officials from County government and County agencies, and with Audit officials from State agencies and participated in an FBI Public Corruption Working Group.*

During the FY 2011-2013 period, I met periodically with County Council members; the County Executive; the Chief Administrative Officer and his senior executive staff; the County Attorney; external auditors; and managers from the Council staffs, the Office of Legislative Oversight, the Montgomery County Public Schools, and other County agencies. In addition, we met with state and federal auditors and prosecutors and other Inspectors General and participated in meetings of the FBI Public Corruption Working Group.

These meetings helped me identify and prioritize matters to be addressed by my office. They also helped ensure that OIG audits and investigations did not duplicate or conflict with other efforts. Standards applicable to the Inspector General community were also discussed, along with other matters of mutual interest.

In addition to the many meetings with Montgomery County and state and other local government officials, I met with several individuals and community groups, either to provide general presentations or to address specific issues. The idea for our informal Inspector General advisory group, which is a significant part of this effort, was first raised in one of these meetings.

Our approach to discussion and issuance of draft reports and our follow-up on recommendations is also an important part of this effort. Despite the fact that the discussions of drafts and our requests for subsequent information may in some cases delay the issuance of an OIG report, the effect on the ultimate goal of effecting improvement has been positive.

Completed OIG Reports

Review of the Vehicle Management Practices of the Fleet Management Services Division's Administrative Vehicle Light Fleet (November 2011)

Background

The replacement cost to the County for automobiles and trucks in the fleet as of June 17, 2011 was approximately $11 million. Improvements to fleet management can yield significant returns with modest effort. We limited our review to the non-public safety vehicle pool to enable a swift analysis. The objective of our review was to determine whether internal controls were documented, implemented, and effective as designed, as well as to identify the impact of any control deficiencies.

Key Points in the OIG Report

We found a significant backlog of non-public safety vehicles slated for replacement by the end of FY 2012. Specifically, approximately 51% of the fleet, with an estimated cost to the County of approximately $5.6 million, was due for normal replacement by June 30, 2012. The County's current system for assigning vehicles is based on application of relatively limited requirements to requests from individual departments, and has produced a high percentage of underutilized vehicles. As increased numbers of vehicles approach their normal disposal age, the County has an opportunity to avoid significant new investment in fleet assets by implementing more aggressive methods of determining the appropriate size and composition of the fleet. To accomplish this, a more rigorous approach is needed.

We also found that not all County agencies tested adhered to Administrative Procedure (AP) 1-4, Sections 5.0.B, 5.2.A, and 5.2.B, which generally require each agency to obtain the driving record of every approved driver each January; maintain a log of each driver's license number and status; and review each driving record to identify suspensions or revocations. Failure to enforce compliance with policies pertaining to driving records and employee eligibility to operate County vehicles creates an unnecessary vulnerability for the County.

We recommended that, in an effort to continue managing vehicle costs, the County should consider utilizing a Vehicle Allocation Methodology as a best practice for purchasing new vehicles and for usage of current vehicles, especially since so many vehicles are due for replacement. Fleet Management Services (FMS) needs to scrutinize vehicle usage (by considering odometer readings and other possible criteria) and evaluate whether each vehicle is absolutely necessary for efficient operations versus occasionally paying mileage to employees for use of personal vehicles. We also recommended that FMS should ensure that each agency complies with Administrative Procedure 1-4, Sections 5.0.B, 5.2.A, and 5.2.B to ensure that personnel operating County vehicles are properly licensed and have maintained a safe driving record.

Key Points in the County Chief Administrative Officer's Response

The Chief Administrative Officer agreed with our recommendations.

Key Outcomes

A new FMS Division Chief was hired in May 2012. The Chief Administrative Officer advised us that a detailed update regarding actions being taken in response to our recommended of a Vehicle Allocation Methodology was to have been presented by CountyStat at the end of May 2013 and that our second recommendation has been fully implemented. We plan to follow up on our recommendations during FY 2014

Evaluation of Budget and Financial Information Provided by Montgomery County Public Schools (January 2012)

Background

Authority to establish policies, employee salaries, and benefits for Montgomery County Public Schools (MCPS) is reserved to the elected County Board of Education (BOE). However, funding for MCPS is provided from revenues appropriated by the County Council. The County Executive's FY 2012 recommendations included, among other things, that the County government pay a smaller portion of the costs of employee health insurance benefits and retirement plans. The Executive recommended that governing boards of the County funded agencies support a similar approach to promote equity among County funded employees but the Executive did not incorporate such changes in the budget levels proposed. For FY 2012, the County Council recommended increasing the share of health benefits costs paid by school employees, and approved funding for MCPS that Councilmembers thought supported that decision. The BOE subsequently announced that due to lower-than-originally-projected health benefit costs in FY 2011 it would not be necessary to increase the share of health benefits costs contributed by school employees in FY 2012. Questions were raised about why the Council did not receive information regarding the lower health benefits costs. These circumstances evidenced the need for a broad review by the OIG to ensure that relevant financial and budget information is provided by MCPS in the future to decision makers and their analysts.

Key Points in the OIG Report

We had four major findings:

1) The Monthly Financial Reports MCPS provides to County elected leaders present the estimated year-end financial results of MCPS relative to the budget. The reports display differences between amounts budgeted and estimates of revenues and expenditures but should present more complete actual revenue and expenditure data for analysis.

2) The actual information reported in the Comprehensive Annual Financial Report (CAFR) differs from the data presented as “actual” in the operating budget submissions. MCPS is able to reconcile the amounts but reconciliations are not presented in MCPS documents. Internal service fund information is only presented in the CAFR.
3) Although Maryland State law requires that the County appropriate funds by specified categories, and that the BOE request and report by these categories (as it does in the Monthly Financial Reports and the CAFR), fewer than 25 out of over 1,000 pages in the MCPS operating budget present data related to the State categories. The budget documents do not clearly link the State categories to the operating or program budget data. The presentation makes it difficult to evaluate the request by State categories and determine the impact of funding decisions. However, we noted that in the December 2011 submission of the Superintendent’s FY 2013 Operating Budget, MCPS included a new pie chart addressing “Where the Money Goes by State Category.”
4) At the time the Council made its final decision on the MCPS appropriation for FY 2012, the Council staff had not been provided updated information regarding the projected health benefits costs in FY 2011. The information was not presented to the Council Education Committee or the Council for review and consideration.

We recommended the Superintendent of Schools work closely with the BOE, Executive and Council to ensure that: 1) they have the information needed to continually improve oversight and that they and the public receive meaningful financial status reports; 2) information reported in the budget documents and other financial reports is reconciled to the CAFR and presents complete information; 3) they agree on budget narratives and exhibits to enhance the BOE budget request; and 4) all relevant information needed by decision makers and their key staff members is consistently communicated and documented.

Key Points in the MCPS Chief Operating Officer’s Response

The response generally defended the adequacy of existing financial and budget information provided by MCPS. However, it did not disagree with any of the recommendations in our report and agreed to provide additional information desired by elected officials.

Key Outcomes

The BOE’s Fiscal Management Committee and the Council’s Education Committee considered and implemented some changes to the MCPS Monthly Financial Reporting in July 2012. Discussions took place and between MCPS and Council staff. MCPS developed and has been submitting a revised monthly financial report during FY 2013 and has been providing other reports that address the recommendations of the OIG report.

Review of Certain Montgomery County Ethics Activities (April 2012)

Background

Montgomery County has enacted a Public Ethics Law applicable to its elected officials, public employees, and members of Boards, Commissions, and Agencies. This Law also sets criteria for private individuals who seek to influence the actions of the County. The Inspector General, Deputy Inspector General, and Assistant Inspector General each had difficulty accessing the County's Financial Disclosure System (FDS) to complete an initial financial disclosure, and became concerned following a July 15, 2011 meeting, in which the newly appointed Ethics Commission Staff Director/Chief Counsel acknowledged problems with the process, and suggested that the Office of the Inspector General conduct an independent review.

The objectives of our review were to determine whether a.) required procedures were documented and in compliance with State of Maryland and Montgomery County Codes, and b.) implemented procedures and internal controls were consistent with required procedures.

Key Points in the OIG Report

We found widespread noncompliance with financial disclosure filing deadlines, due to poor communications, poor coordination among County departments and systems, and enforcement shortcomings. 86% of the initial financial disclosure reports we tested were not submitted within the statutory deadline of 15 days after commencing service with the County. 29% of all 2010 annual financial disclosure reports were submitted after the extended deadline of May 15, 2011, and 4% had not been submitted as of January 17, 2012 - the date of our final testing. 30% of the final disclosure reports we tested were filed after the last day of employment – the statutory deadline.

There is no overarching entity within Montgomery County Government that has the authority, accountability, and control to ensure that the financial disclosure reporting process operates in accordance with the Public Ethics Law. For example, hiring departments must submit timely notices of employment changes, department managers must ensure their staff members submit timely disclosures, and other departments must correct system interface errors. We found that FDS did not provide adequate follow-up notifications to filers and reviewing managers. We observed that a significant number of initial and final financial disclosure reporting delinquencies resulted from filers' inability to access the FDS, precluding them from timely, on-line disclosure submission. We found that the County did not enforce the Public Ethics Law's mandatory and discretionary penalties for delinquent filers and non-filers. We found that the Ethics Commission office had not put its many manual procedures in writing, which was an operating risk, given the office has only two staff members.

To effectively implement the Public Ethics Law, the causes that contribute to delay in completing Financial Disclosure forms must be addressed. We recommended that the County Executive and Council work with the Ethics Commission Staff Director/Chief Counsel to ensure authority, accountability, and control for the logistical operation and enforcement of the financial disclosure filing process is clearly designated. Steps should be undertaken to modify the design of the ERP/FDS interface that routinely transfers data from the County's human resources systems to its financial disclosure system in order to eliminate any manual re-entry of data. The process to identify, approve, and distribute notifications to individuals subject to annual financial disclosure reporting should be modified to eliminate operational delays that now exist. The assignment of system access privileges should be modified to eliminate delays for initial filers to gain access to the disclosure system. An alternative, manual financial disclosure process should be developed as a failsafe back up to the current on-line system. The Ethics Commission should reduce manual processing workloads by streamlining procedures, and further automating its financial disclosure, lobbyist registration, and outside employment systems.

Key Points in the Ethics Commission Staff Director and County Chief Administrative Officer's Responses

The CAO and Chief Counsel/Staff Director of the Ethics Commission were each asked to respond to the majority of the report's findings. Three findings were directed solely to the Ethics Commission. Generally, the CAO and Chief Counsel agreed with the report's findings, with each stating his reasoning for partial concurrence with a few recommendations. The CAO's response provided discussion of corrective actions, systems enhancements, and procedural changes that would be undertaken, while the Chief Counsel's response addressed several policy considerations and anticipated procedural changes given the limited resources of the Commission.

Many of the CAO's anticipated corrective actions were predicated upon the mutual agreement between the CAO and the Ethics Commission to transfer logistical operation of the Financial Disclosure System to the Executive Branch.

Key Outcomes

The report's findings and recommendations were agreed to by the CAO and the Ethics Commission in a manner that was consistent with the actions we had recommended. On May 3, 2012, the Government Operations and Fiscal Policy Committee of the County Council requested that the CAO and Ethics Commission reverse their decision to transfer logistical operation of the Financial Disclosure System to the Executive Branch, reaffirming its preference that all disclosure activities remain within the purview of the Ethics Commission. The Council authorized additional human and funding resources to aid the Ethics Commission in its effort to address the report's recommendations.

A number of important steps were taken to implement the recommendations:

- On August 20, 2012, the CAO distributed a memorandum to Executive Branch Department and Office Directors announcing "Internal Process Changes to Ensure Compliance with the Public Ethics Law" designed to ensure conformity with the Public Ethics law. The memorandum additionally announced a partnership with the Ethics Commission to determine a more comprehensive solution for handling required disclosure filings.

- A task order was put was in place for documenting the current system and business processes.
- In September 2012, a meeting was held with Key representatives from the office of the CAO, the Ethics Commission, the County Council staff, and the OIG in attendance. Implementation of those steps contained in the August 20, 2012 memorandum and the future steps to address each OIG recommendation were discussed.

As of May 2013, the Staff Director of the Ethics Commission reported in May 2013 a 99.75% return rate for annual filers during the 2012 Annual Financial Disclosure filing season. The Ethics Commission staff director, in a message to the Assistant CAO responsible for coordination states: *"...For the first time, I can attest that our data is very accurate, and we know the status of the filers."* His note continues, attributing the success to his new staff, the leadership of the CAO, and to members of the Division of Technology Services staff.

Office of Human Rights' Management of Purchasing Cards and Space Renovation (May 2012)

Background

The Montgomery County Office of Human Rights (OHR) investigates complaints of discrimination, provides staff support to County commissions, and conducts educational and other programs to promote equal rights and opportunities. The Office of the Inspector General (OIG) received allegations regarding misuse of OHR's Purchasing Cards (P-Cards). The OIG also received reports expressing concerns about the potential waste of taxpayer dollars for renovation of space for OHR's use. Our objectives were to determine: 1. If OHR's use of P-Cards was in compliance with County policies and procedures, 2. If OHR's space renovation project adhered to the County's policies and procedures, 3. If the costs associated with OHR's space renovation were in compliance with contractual language, and 4. If P-Cards were used for the space renovation.

Key Points in the OIG Report

We questioned almost 45% of the transactions made with OHR's Purchasing Cards (P-Cards), either because the transactions were not in compliance with the County's policies and procedures governing P-Card use with respect to documentation requirements, or because they were questionable with respect to the purposes of the purchases. We found that OHR also did not comply with County P-Card transaction review policy. We found that OHR's space renovation project in 2009 adhered to the County's procedures governing the expansion or renovation of office space. The renovation costs were consistent with contractual terms associated with the project. However, the amount of space occupied following the renovation may exceed OHR's current requirements. We did not find any indication or evidence that P-Cards were used to pay for the renovation.

We recommended that OHR ensure that all merchandise ordered has been received and no duplicate payments have been made, that OHR review all purchases to determine their value and require the responsible parties to make restitution to the County for purchases that did not further the business of the County, and that OHR comply with County P-Card policies with respect to all future purchases. We recommended that OHR ensure that transaction reviewers make sure that documentation is attached and purpose is reviewed before approving the transaction, and that transaction reviewers are trained in transaction reviews. This training should highlight responsibilities of transaction reviewers. We recommended that OHR examine its available space and determine whether it is appropriate for OHR's current needs.

Key Points in the County Chief Administrative Officer's Response

The Chief Administrative Officer (CAO)'s response to our report indicated agreement with all of our recommendations relating to P-Cards. The CAO stated that his office reviewed all of OHR's transactions from September 2008 to December 2010. The review found that all services and merchandise purchased were fully received, and it verified the accuracy of payments. The CAO stated that the County was fully reimbursed for the cost of questionable transactions determined by the CAO to be non-compliant with County policies, procedures, laws, or regulations. The CAO also stated that the OHR office space referenced in the OIG report is currently fully occupied, because Community Engagement Cluster employees have recently been relocated there.

Key Outcomes

The CAO reports that all IG recommendations were fully implemented.

OHR Staff, Management and the County's purchase card administrator confirmed that no duplicate payments had been made and that all ordered items had been received. A review of all transactions was performed by the purchase card administrator through which inappropriate purchase items were identified and appropriate reimbursements were made to the County.

Internal processes and procedures have been modified to ensure that all documentation and necessary justifications are in place prior to proceeding with various phases of purchasing using the card. The Office now has reduced the number of cards available from 5 to only 1, making oversight easier and a comprehensive training session on the use of cards was conducted by the County's purchase card administrator.

The CAO confirmed that the space is fully occupied by the two program activities that share the space: the Office of Human Rights and the newly formed Community Engagement Cluster.

Review of the Montgomery County Public Libraries Collection Management Procurement Internal Controls (October 2012)

Background

The OIG received an allegation through the fraud hotline that an amount in excess of $200,000 was missing from the collection development budget. Based upon preliminary inquiries, we determined that our office should conduct a review of the relevant controls and test purchase transactions.

The objectives of this review were to determine whether internal control procedures related to the procurement function in the Library's Collection Management Program were effective as designed, documented, and implemented consistently.

Key Points in the OIG Report

We found that internal controls were weak and left the County vulnerable to loss. However, our review and testing did not disclose instances of fraud.

We found that the procedures for order approval, receiving inventory, and approving contracts were not formally documented, fully developed, or adhered to consistently. In particular, the receiving function did not provide specific controls such as an independent signature and date on items received. The department did have several undocumented procedures which would provide a framework for some, but not all, of the controls needed to ensure and preserve the integrity of the procurement process for library materials.

To evaluate the payment approval process, we tested a sample of payments for FY 2010, 2011 and 2012, to test both the accuracy of payments and that someone separate from the ordering and receipt processes approved payment. We found no exceptions. All invoices agreed with the original orders for pricing, quantities and discounts and all evidenced proper payment approvals.

We found that the Library did not consistently implement the procedures as approved by the Chief Administrative Officer and the Office of the County Attorney. Even though many contracts had expired and performance dates were not extended, the Library continued to order over $3 million in purchases under those contracts. Additionally, the Library did not consistently follow other procedures designed to ensure the integrity and effectiveness of the contracting process.

We recommended that the Director of the Public Libraries Administration ensure that procedures and controls necessary to assure the integrity of its procurement processes be established and documented. The Department should request guidance from the Department of General Services, Office of Procurement, and the Office of the County Attorney to facilitate implementation. The Department should, to the extent practicable, use the Office of Procurement's existing guidance and forms available to all County agencies, rather than create its own description of procedures and controls.

We also recommended that the Director of the Public Libraries Administration implement and monitor compliance with the Library's stated procedures, and amend the period of performance and all relevant information in the contracts it continues to use to procure library materials.

Key Points in the County Chief Administrative Officer's Response

The CAO's response indicated agreement with all of our findings and recommendations.

The CAO stated that corrective actions have been taken and other improvements are in process. These include:

- The Library has drafted a comprehensive manual that includes revised procedures and new procedures, and which is now with other County Departments and Offices for review and final guidance.
- The Office of Internal Audit will develop ways to conduct periodic external reviews of Library compliance.
- The Library has updated the documentation provided for contracts and is working to replace all expired materials contracts, three of which it has already replaced.

Key Outcomes

The CAO indicates they have made significant progress in implementing the report's recommendations. A new comprehensive manual to govern administration of the purchasing of library materials was recently approved and is currently in use by Montgomery County Public Libraries.

Review of Montgomery County Commercial Property Tax Assessments (January 2013)

Background

Assessed values of real property within the County are developed by the Maryland State Department of Assessments and Taxation's Montgomery County Office. Although the County government does not develop real property assessments, Montgomery County Code §20-41A charges the County Department of Finance with protecting the public interest by acting on behalf of the taxpayers and the County to challenge inaccurate property assessments.

We received information that the Parklawn Building may not have been properly assessed. Its assessed value fell in 2009 to less than half of its 2007 assessed value. Our objectives in this review were to determine (1) whether SDAT has a consistent process for assessing the value of commercial buildings, (2) if so, whether that process was followed in the case of the Parklawn Building, and (3) what the County's process is for challenging inaccurate commercial property assessments.

Key Points in the OIG Report

The State Department of Assessments and Taxation (SDAT) is required to follow methods set out in Maryland statutes and described in the Maryland Assessment Procedures Manual. In the case of the Parklawn Building, which houses the U.S. Department of Health and Human Services, the information in SDAT files did not demonstrate how the assessment methods were followed. Using available information and the required methods, we calculated numbers that were significantly different from the final assessed values, which resulted from a settlement between the property owner and SDAT. We found no support in SDAT files for the amounts agreed to in the settlement, such as analyses of capitalization of income, replacement cost, or comparable recent sales.

We compared assessed values to sales prices for 10 relatively high value commercial properties that sold recently and for 10 relatively low value commercial properties that sold recently. We found that for those properties, assessed value was not a good indicator of market value, especially for the high value properties. Properties with sales prices over $10 million were assessed at an average of 68% of sales prices, while properties with sales prices under $700,000 were assessed at an average of 90% of their sales prices.

Although the Montgomery County Department of Finance took steps during FY 2012 to improve the fairness and accuracy of property tax records, it devotes significantly fewer resources to challenging inaccurate property assessments than it did during the 1990s and early 2000s, and consequently it is significantly less active in carrying out its responsibilities under §20-41A. The Department of Finance appeals fewer assessments than it did in previous years, and it does not intervene in or otherwise participate in appeals brought by taxpayers.

We recommended that the County Department of Finance review more commercial property assessments, make more appeals, and participate in more taxpayer appeals. This would require that more resources be dedicated to the property assessment review function. We also recommended that the Department of Finance develop a method for determining if an assessed value is accurate, which can be applied whether or not a property has recently sold.

Key Points in the County Chief Administrative Officer's Response

The CAO agreed to implement all seven of the report's recommendations. Currently, the actions taken in response to the OIG recommendations are being reviewed by the CAO, and a status report is due within two weeks. The CAO is on schedule to fill a new position in July that will be focused on assisting the Department of Finance on property tax assessment related issues as identified in the OIG report.

Administration of Montgomery County Department of Transportation Tree Planting Services Contracts (April 2013)

Background

The Office of the Inspector General (OIG) received a complaint alleging that a contractor for the Department of Transportation, Division of Highways, Tree Maintenance Section (MCDoT) had failed to comply with the terms of a contract, and that the Contract Administrator had misused funds and mismanaged the contract. We also investigated an allegation that the Chief of the Tree Maintenance Section for the program initiated an action against the complainant who brought these concerns to our attention, a contractor's employee, in retaliation for disclosing information about contract administration and performance he reasonably believed to be gross mismanagement, or a gross waste of money.

The objectives of our investigation were to determine the validity of the allegations. Our investigation covered the period of the tree planting services (TPS) contract, November 13, 2009 through November 12, 2012.

Key Points in the OIG Report

We found that the MCDoT Division of Highway Services Tree Maintenance Section mismanaged the tree planting services contract and misused the arborist inspection contract. We estimated that if uncorrected, the program funds misused could be in excess of $180,000. Evidence of the mismanagement included:

- MCDoT accepted and paid for planting services and materials provided by the tree planting services contractor that the arborist inspectors had identified as improperly planted, damaged, or diseased and should not be accepted,
- The tree planting services contractor unilaterally substituted and the MCDoT Tree Maintenance Section authorized payment for trees that were not the cultivar specified in the contract,
- The tree planting services contractor presented invoices to MCDoT for work not authorized at time of performance, which MCDoT accepted and paid,
- MCDoT authorized purchase of extended guarantees for trees that arborists had identified as likely to fail due to improper planting techniques and that should have instead been replaced under the warranty,
- MCDoT contracted for arborist inspection services but did not follow-up on inspection reports, and

- MCDoT acted to address deficiencies only after the OIG announced its investigation and after the reports noted by a contracted arborist, who replaced the complainant in late July, mirrored those of the complainant.

We also found that the complainant's removal from employment resulted from his report of the Contract Administrator's mismanagement to the contractor who was his then employer, and the complainant's stated intent to report the alleged mismanagement to a higher authority in the County. Montgomery County Code has two sections intended to prevent retaliation against contractors and employees for revealing information about fraud, waste, and or mismanagement. The events described in this report appear to violate the spirit, if not the letter of the Code.

Our report recommends corrective actions that should be undertaken by the Department of Transportation.

Key Points in the County Chief Administrative Officer's Response

The CAO response indicated agreement with all of our recommendations. He acknowledged that improvement in the administration and enforcement of the TPS contract is necessary, and indicated that MCDoT's Director had begun to take some corrective actions and make other improvements in response to the report's findings and recommendations.

In his response, the CAO asserted certain corrections, updates, or clarifying points regarding the report's findings and its supporting documents.

a. The CAO disagreed with our report's estimated monetary waste, arguing that it is the result of extrapolation of the deficiencies discovered in the 2012 planting season. He asserted that deficiencies found in one planting season should not be applied to planting and inspection services in the prior years, as there is no evidence substantiating this. Also, he stated that those deficiencies discovered in the 2012 planting season have either already been corrected or will be corrected in the spring 2013 planting season.
b. The CAO noted that as a normal practice, prior to the expiration of the one-year warranty, all planting deficiencies are required to be corrected in accordance with all relevant contract specifications and standards at no additional cost to the County.
c. The CAO also noted that of the over 150 sweet gums planted during these three planting seasons, only 14 have been detected to have seed balls (a trait of the regular species). MCDoT investigation discovered that the contractor inadvertently received a limited number of incorrect trees from the nursery. As required by MCDoT, any of those planted sweet gums that develop seed balls will be replaced by the contractor at no additional cost to the County.
d. The CAO stated that: "the primary reasons that MCDoT requested the Arborist Contractor replace its Arborist were his poor judgment in regard to public safety, poor

attitude, and communication manners. His combative attitude toward the public and coworkers, and insubordinate behavior toward supervisors and managers demonstrated that he was not suited to perform the services as Arborist under the consultant contract. It should be also noted that the Complainant was neither terminated nor fired by MCDoT. MCDoT requested the Arborist Contractor replace the Complainant with another Arborist."

Key Outcomes

The CAO and Director of the Department of Transportation acknowledge that improvement in the administration and enforcement of the tree planting services contract is necessary. The CAO reported that the MCDoT Director has already taken some corrective actions and is in the process of making other improvements in response to the OIG report and input from me and the County.

We do not currently have updated information relative to the implementation of our recommendations. The pattern of deficiencies detected when the replacement arborist inspected the trees planted in the 2012 season was consistent with the pattern of deficiencies documented by the complainant that related to trees planted by the TPS contractor during the 2010 and 2011 planting seasons. Twelve of the thirty-six planting deficiencies documented related to trees planted during 2010 and 2011. Those deficiencies apparently were not previously detected or corrected and are now out of warranty. They are also not covered by the extended warranty purchased by MCDoT. We further note that although MCDoT accepted the TPS contractor's assertion that he had substituted Hapdel trees for the Rotundiloba, the contractor did not provide, and MCDoT did not request, appropriate documentation to support that assertion.

We expect that MCDoT will take corrective action relative to all of the deficiencies noted in our report, thus avoiding most of the potential loss. However, efforts of which we are currently aware do not suggest that effective actions are being taken.

Significant OIG Inquiries Reported

Clifton Larson Allen LLP Auditor Independence
(July 2012)

Key Points in the OIG Report

Clifton Larson Allen LLP (CLA) audited the County's financial statements as of and for the year ended June 30, 2011 and issued their opinion thereon in March 2012. CLA also, using a different team of people who observed certain agreed-upon protocols, assisted the County in cleaning up its books of account which provided support for elements of those financial statements. We were asked to comment on this arrangement, particularly as to whether CLA's performing the additional work impaired the independence of the CLA audit team.

We decided to use an outside Certified Public Accountant to objectively review this matter. His report concluded that CLA did not, by doing such work, impair its staff members' or the firm's independence. We concurred with his conclusion.

Key Points in the County Chief Administrative Officer's Response

We provided a draft of this report to the County's Chief Administrative Officer for review. He informally responded that his office had no issues with the report. He was not requested to, and did not provide a formal written response**.**

Allegations of Failure to Discharge Statutory Duties by the
Montgomery County Department of Permitting Services
Regarding Construction Work on the "Monty" Project
(February 2013)

Background

An attorney for White Flint Express Realty Group, LLLP (White Flint) wrote to the OIG on Nov. 5, 2012, requesting an investigation into Department of Permitting Services (DPS) actions and inactions regarding Monty Project construction work. He alleged that the construction work caused cracks and other damage to White Flint's buildings, which are on property adjacent to the Monty. He claimed that DPS did not properly enforce requirements that neighboring buildings not be damaged. He also claimed that DPS erroneously allowed work on the Monty to continue, even though the terms of a DPS order stopping certain work had not been met, and the owner of the Monty had misled DPS regarding access to White Flint property. White Flint representatives subsequently met with the OIG and presented evidence they believed supported their allegations of failure to discharge statutory duties by DPS related to the ongoing construction of the Monty.

The Monty is under construction at 4918 St. Elmo Avenue in Bethesda. It is to be a 17-story apartment building with a 4-level underground parking garage. It is owned by Bainbridge St. Elmo Bethesda Apartments, LLC (Bainbridge).White Flint owns adjacent property, including two one-story buildings at 4909 and 4905 Fairmont Avenue.

In late 2011 and early 2012, White Flint informed DPS of damage to White Flint property. In early 2012, White Flint's architect emailed DPS information from White Flint's engineer about movement of the slab, the roof beams, and walls of White Flint property.

An engineering firm hired by Bainbridge, KCE Structural Engineers, P.C. (KCE), wrote to DPS on Jan. 27, 2012 that the White Flint "buildings are not in imminent danger of collapse, nor must the tenants or their visitors be removed due to safety concerns caused by the Monty construction." White Flint disputed this and claimed to have told its tenants to vacate for safety reasons.

Our objectives in conducting this inquiry were limited to addressing those specific issues raised by White Flint that we interpreted as allegations appropriate for investigation by the OIG. We met with appropriate representatives from White Flint and interviewed DPS management and staff. We requested and analyzed evidence relevant to the issues raised, reviewed relevant laws and regulations, and visited the construction site.

Key Points in the OIG Report

Representatives of White Flint, including an architect, an engineer, and an attorney, met with the OIG on Nov. 13, 2012. They showed us photos of cracks in White Flint buildings and told us of damage to flooring. They stated that the White Flint buildings were unsafe and in danger of collapse and made several allegations regarding the conduct of DPS.

The allegations were the following: that DPS improperly permitted the continuation of work on the project; that DPS unlawfully delegated review and approval authority of the plan and its implementation to the owner of the Monty; that DPS made an incomplete investigation, because the Monty's consultants falsely advised DPS that they were denied access to White Flint property; that no valid Traffic Control Plan existed; and that DPS allowed Bainbridge to violate the law regarding construction work in the right-of-way.

We determined that under the Montgomery County Code, the Director of DPS may accept certified reports of inspection and certified engineering plans as evidence that the building code requirements of Montgomery County have been met. As Bainbridge submitted documents with engineering certifications, DPS was entitled to accept them under the law. In addition, DPS took reasonable steps to investigate: it performed over 100 inspections, requested and received reports from engineers, and it encouraged White Flint to allow access. Although the estimated timeframe for the validly issued Traffic Control Plan had expired, a traffic control plan is valid for the duration of a construction permit, including extensions. The Director of DPS provided copies of citations DPS issued for illegal activity in the right of way related to the Monty construction.

Conclusion

We found no evidence that would substantiate the allegations made in this complaint against DPS. We drew no conclusions about whether or to what extent the Monty construction damaged White Flint property. Accordingly, no further investigation by the OIG, nor recommendation or follow-up action was required.

Key Points in the County Chief Administrative Officer's Response

The Chief Administrative Officer and the Director of DPS had an opportunity to comment on the draft report, but advised us they had no comments and provided no formal response to the report.

Comparison of FY 2012-2013 OIG Budget to Actual

For FY 2011 and FY 2012, four positions, supplemented by contract audit support, were authorized in the OIG Budget. The FY 2013 budget provided for an increase of one part-time position with a corresponding decrease in contract services expenses.

BUDGET/ACTUAL COMPARISONS

	Fiscal Year		
	2011	**2012**	**2013 (projected)**
Annual Budget	**$660,141**	**$677,460**	**$687,400**
Expenditures - Personnel	**$412,223**	**$498,841**	**$549,300**
Expenditures - Other	**$37,633**	**$67,043**	**$32,000**
Total Expenditures	**$449,856**	**$565,884**	**$581,300**
Encumbrances	**$8,831**	**$100,000**	**$80,000**
Total	**$458,687**	**$665,884**	**$661,300**
Remaining Budget	**$201,454**	**$11,576**	**$26,100**