



OFFICE OF INSPECTOR GENERAL

Thomas J. Dagley
Inspector General

MEMORANDUM

March 4, 2008

TO: Mike Knapp, President, County Council
Isiah Leggett, County Executive
Leon Rodriguez, County Attorney

FROM: Thomas J. Dagley
Inspector General

SUBJECT: Access to WSSC Financial Information

The purpose of this memorandum is to formally notify you that the Washington Suburban Sanitary Commission (WSSC), an independent County agency that accepted more than \$2.3 billion in Montgomery County Council funding over the past three years, has denied the Office of Inspector General (OIG) access to detailed expenditure information needed to carry out its mandated mission. Until resolved, WSSC's refusal to provide the requested information will substantially impede efforts to protect Council-approved dollars from fraud, waste, and abuse, and address taxpayer concerns generally regarding open and honest spending practices.

Consistent with Montgomery County Code, Article 13, Section 2-151 (the County's Inspector General law), I request that the County Attorney take appropriate action to require WSSC to provide the information requested by the OIG.

In addition, I urge the Council and Executive to take the action needed, including the promotion of amendments to County and/or State law, to clarify the authority of the OIG to examine WSSC financial information. I believe the Council and Executive have a unique opportunity to raise the profile of this important issue, increase levels of openness and accountability in County government, and eliminate perceived long-standing barriers used to avoid delivering information in an easily-understandable format to the OIG and possibly other oversight organizations. Eliminating barriers to improving the County's governance system is key to: ensure the OIG has the information needed to carry out its responsibilities; increase levels of management accountability; and close the gap between what the public expects and what is actually delivered.



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In a recent survey commissioned by the Association of Government Accountants¹, researchers found that government at all levels is failing to meet the needs of its citizens with regard to financial management reporting. The survey results indicate the public overwhelmingly believes their government has an obligation to provide information that explains how the government generates and spends its money; however, government is not meeting expectations in any area included in the survey. According to survey results, gaps are widest in being “open and honest in spending practices” and being “responsible to the public for its spending.” Survey respondents were specific in the ways in which governments can address their needs and improve accountability, including better reporting (open disclosure and easy-to-read reports), a change in attitude in communications (honesty and transparency), and better information in the right channels (websites and through the press).

WSSC Background

In a memorandum dated January 14, 2008 to WSSC’s General Manager, copy attached, the OIG requested detailed electronic files for all distributions made by WSSC from July 1, 2006 through December 31, 2007. This request is similar to requests made to leaders of other County-funded agencies, including Montgomery County Public Schools, Montgomery College, and the Maryland-National Capital Park and Planning Commission. We requested that each file include specific parameters such as: vendor name and address; payment check number, amount and date; invoice number and date; and contract and purchase order number. We advised the General Manager that the information requested was needed to carry out the OIG mission, including actions outlined in our Four-Year Work Plan (August 2005) to prevent and detect fraud, waste, and abuse.

In a memorandum dated February 5, 2008 (received February 26), copy attached, General Manager Andrew D. Brunhart reported that after reviewing the request, and consistent with past practice, WSSC respectfully declined to provide the information. In his response, Mr. Brunhart stated WSSC is not a “County-funded agency”; rather, WSSC is a bi-county agency of the State of Maryland. Mr. Brunhart cited that the County Attorney for Montgomery County has cast doubt on the legality of applying Section 2-151 to an entity created by public general law such as WSSC (e.g. Office of the County Attorney, Opinion 97-1, June 27, 1997). Mr. Brunhart further stated “While the OIG initiative about which you write appears to have considerable

¹ In January 2008, the Association of Government Accountants (AGA) commissioned a study by a leading market research firm to conduct the first in a series of annual surveys of public attitudes to government transparency and accountability. The survey findings revealed deep dissatisfaction among the American public with both the availability of government financial information and the way it is delivered. More information can be found at <http://www.agacgfm.org/harrispoll2008.aspx>.

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merit in connection with County-funded agencies, we feel that existing State controls over WSSC, including independent internal and external audits, provide ample oversight of WSSC's affairs."

With regard to the adequacy of State controls over WSSC, in a letter dated August 21, 2006, copy attached, from Senator Nathaniel J. McFadden and Delegate Charles Barkley, Co-Chairs, Joint Audit Committee (JAC), Maryland General Assembly, to Delegate Brian R. Moe, they address audit authority and responsibility for WSSC. Specifically, in response to a request that the JAC initiate an audit of WSSC by the Legislative Auditor, the JAC concluded that the State Office of Legislative Audits (OLA) "would not be the appropriate organization to conduct this audit for several reasons. OLA is responsible for auditing State agencies and those entities which receive State funds. Although created by State law, WSSC is not a State agency nor does it receive State funds." In the letter, the JAC noted that State law provides both the Montgomery County and Prince George's County government with significant powers to monitor WSSC operations. The letter advises "State law grants both the respective county executives and county councils the authority at any time to audit and examine the books and records of WSSC (Article 29, § 4-101(d) of the Annotated Code of Maryland)."

To help illustrate the importance of understanding and resolving the perceived legal and other barriers of the OIG to include WSSC programs and activities in its audit and investigative work, the amount of the Council-approved WSSC operating and capital budgets for the past three fiscal years is summarized below:

WSSC FY 2006-2008 Council Funding (m=million)

| Budget (rounded) | FY 2006 | FY 2007 | FY 2008 | Total |
|-------------------------|----------------|----------------|----------------|--------------|
| Operating | \$495 m | \$502 m | \$526 m | \$1,523 m |
| Capital | \$265 m | \$255 m | \$282 m | \$802 m |
| Total | \$760 m | \$757 m | \$808 m | \$2,325 |

This is only the second time since my appointment that I have needed to notify you, in accordance with MCC §2-151, that a County-funded agency has not provided information to the OIG within a reasonable time. This notice comes at a key period in OIG efforts to prevent and detect fraud, waste, and abuse. As examples, audit follow-up is needed on specific capital budget project expenditures, and there are fraud hotline reports that warrant an analysis of WSSC's general categories of expenditures and as well as individual line-items.

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In addition to needing the requested information to respond to specific WSSC issues, we believe we have a responsibility to the Council and Executive to provide ongoing analysis of expenditures to determine whether improper or erroneous payments² are a significant problem for WSSC programs, and publicly report our results at least annually.

In closing, it is not clear why the willingness and responsibility of the OIG to examine detailed financial expenditures are not viewed by WSSC leadership as an initiative that they will support. We believe the matter limits the ability of the OIG to carry out its mandated mission and to ensure Council-approved dollars are efficiently and effectively managed.

TD:dg

Attachments

cc/att.: County Council Members
Tim Firestine, Chief Administrative Officer, MCG
WSSC Commissioners

² Payments that should not have been made or were made for incorrect amounts because of errors, poor business practices, or fraud or abuse by contractors or employees.