



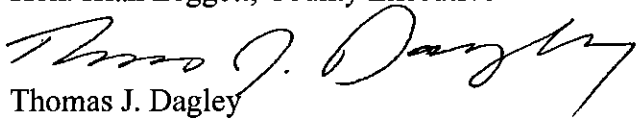
OFFICE OF INSPECTOR GENERAL

Thomas J. Dagley
Inspector General

MEMORANDUM

April 16, 2010

TO: Hon. Nancy Floreen, President, County Council
Hon. Isiah Leggett, County Executive

FROM: 
Thomas J. Dagley
Inspector General

SUBJECT: Final Report – OIG Review of the Montgomery County Government (MCG)
Payments to Montgomery County Volunteer Fire and Rescue Association
(MCVFRA)

As a follow-up to my Memorandum to Timothy L. Firestine, Chief Administrative Officer (with a copy provided to all Council Members) dated March 25, 2010, the attached final report regarding MCG payments made to MCVFRA is submitted to you in advance of its release.

An exit conference with Executive and Fire and Rescue Services management was held on March 18, 2010 to discuss the finding, analysis and recommendation. Management's response to our review is included in the final report. In accordance with OIG practices, we have included in the final report our comments on the management response.

Please do not hesitate to contact me at 240-777-8241.

Re: #0041

cc: Council Members
Steve Farber, Director, Council Staff
Timothy L. Firestine, Chief Administrative Officer

Attachment



Review Report

Office of Inspector General

Montgomery County Government Payments to
Montgomery County Volunteer Fire and Rescue Association

April 2010



Office of Inspector General
Montgomery County, Maryland

- This report is available to the public in printed or electronic format.
- To obtain a printed copy, please call or write:

Office of Inspector General
51 Monroe Street, Suite 802
Rockville, Maryland 20850
Telephone 240-777-8240
Email: ig@montgomerycountymd.gov

- Please address specific inquiries about this report to Thomas J. Dagley, Inspector General, in writing or by calling 240-777-8240.
- Montgomery County employees should report fraud, waste, and abuse to the confidential OIG fraud hotline. Call 24 hours a day, 7 days a week to 1-800-971-6059.

**Office of Inspector General
Review Report
Montgomery County Government Payments to
Montgomery County Volunteer Fire and Rescue Association
April 2010**

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Background Information

The primary goals of the Office of Inspector General (OIG) include: reviewing the effectiveness and efficiency of County government; preventing and detecting fraud, waste and abuse; and ensuring legal, fiscal, and ethical accountability by those responsible for managing resources and programs funded by Montgomery County Council appropriations. In this regard, our review of Montgomery County Government (MCG) payments made to the Montgomery County Volunteer Fire and Rescue Association (MCVFRA) focused on the internal controls and management oversight of the County funds used for the compensation and support of the MCVFRA Executive Director position and the process used to determine the amount of County funds to transfer to the MCVFRA.

In accordance with Montgomery County Code Chapter 21, FRS, Section 21-6, Local Fire and Rescue Departments (LFRD) representative; direct negotiation process, MCVFRA is the authorized representative to negotiate on behalf of local fire and rescue departments with the Montgomery County Fire Chief.

As part of the FRS negotiations with MCVFRA, the Chief Administrative Officer (CAO) entered into a Memorandum of Understanding (MOU) in fiscal year (FY) 2005 with MCVFRA whereby MCG agreed to transfer funds to MCVFRA for start-up costs and expenses. In each subsequent fiscal year, the CAO entered into a MOU to transfer funds to the MCVFRA for the compensation and support of the MCVFRA Executive Director position. In the MOU, MCVFRA agreed to provide Fire and Rescue Services (FRS) management a quarterly accounting of all expenditures (personnel and non-personnel) related to the MCG funds transferred to MCVFRA each fiscal year.

Conclusion

Our review identified a finding and recommendation that will provide an opportunity for senior management to improve the County process for transferring funds to MCVFRA and the management oversight and internal controls used to ensure the funds are used in an effective and efficient manner. The results from our review disclosed a surplus of County funds in the amount of \$115,206 in the custody of MCVFRA.

In the MOU for fiscal year (FY) 2010, senior management recognized the need to enhance the oversight of County funds by adding requirements that MCVFRA maintain an accounting system that would produce reliable financial information relating to the expenditure of County funds. Additionally, this MOU provided the County the authority to audit MCVFRA's financial records annually or by a show of cause to ensure the appropriate use of County funds.

Prior Audit or Review Activity

The MOU process to transfer County funds and the oversight of MCVFRA expenditures have never been audited or independently reviewed.

Finding and Recommendation

Finding

The County's process to fund MCVFRA and the internal controls used by FRS to provide oversight of the funds were not sufficient to ensure effective use of County funds.

Analysis

The current collective bargaining agreement between MCVFRA and the County began July 1, 2008 and continues through June 30, 2011 (FYs 2009 -- 2011). In a Side Letter dated January 25, 2008 between the MCVFRA and FRS, the County agreed to transfer \$235,000 to MCVFRA on July 1 of each year of the collective bargaining agreement. In addition, the County agreed to transfer \$40,000 to MCVFRA on July 1, 2010 to purchase a vehicle to be used for MCVFRA business. The Executive's recommended FY 2011 budget submitted to the Council includes a payment to MCVFRA in the amount of \$275,000 (\$235,000 plus the \$40,000 for the purchase of a vehicle).

The OIG reviewed the MCG payments made to MCVFRA for FYs 2008 and 2009 in the amounts of \$210,000 and \$235,000, respectively. Exhibit A details the MCG funds transferred to MCVFRA for FYs 2008 and 2009, the expenditures reported by MCVFRA and the surplus County funds identified by the OIG for FYs 2008 and 2009.

Exhibit A: MCG Funding of MCVFRA

Fiscal Year	MCG Funds Transferred to MCVFRA	Personnel and Non-Personnel Expenditures Reported by MCVFRA	Surplus MCG Funds
2008 ¹	\$210,000	\$147,964	\$62,036
2009	\$235,000	\$181,830	\$53,170
Totals	\$445,000	\$329,794	\$115,206

Sources: Office of Human Resources and FRS

Our analysis of County funds transferred to and expenditures reported by MCVFRA identified a surplus of approximately \$115,206 during FYs 2008 and 2009. The OIG determined there was insufficient oversight by FRS to reconcile the MCG funds transferred to MCVFRA with the quarterly expenditures reported by MCVFRA. Financial documents provided to the OIG by MCVFRA disclosed the surplus MCG funds appear to be in the custody of MCVFRA.

According to MCVFRA, it maintains bank accounts exclusively for County funds. The annual MOU between the County and MCVFRA does not require that the County funds be spent in the respective fiscal year and does not address how to resolve any surplus County funds in the custody and control of MCVFRA at the end of a fiscal year.

¹ The FY 2008 amount transferred by the County to MCVFRA included funds for a part-time administrative person. According to MCVFRA, the part-time position was not hired because there was no facility for the individual to work.

According to the Office of Human Resources, the amount of funding transferred each fiscal year to MCVFRA, with the exception of the initial funding provided to MCVFRA in March 2005, was negotiated within the scope authorized by the County Executive. There was no cost justification or line item budget used to support the dollar amounts the County agreed to provide MCVFRA each fiscal year. In addition, even though there was a surplus of \$62,036 funds in FY 2008, the County agreed to increase the annual payment to MCVFRA by an additional \$25,000 for FYs 2009 through 2011.

Recommendation

We recommend the CAO develop a MOU each fiscal year that clearly states the intended purpose of MCG funds transferred to MCVFRA and the reconciliation procedures for any surplus funds remaining at the end of each fiscal year, including the surplus funds remaining at the end of FYs 2008 and 2009.

We also recommend the Fire Chief implement an oversight process that reviews and monitors quarterly accounting reports submitted by MCVFRA, and that a financial audit be conducted as outlined in the 2010 MOU with MCVFRA to ensure the appropriate use of MCG funds.

Scope, Objectives and Methodology

Under the authority of Montgomery County Code §2-151, we conducted a review of the MCG payments transferred to MCVFRA for FYs 2008 and 2009. We performed the review in accordance with the principles and standards for offices of inspectors general published by the Association of Inspectors General, the President's Council on Integrity and Efficiency, and other professional organizations.

In July 2009, the OIG began examining MCG payments made to MCVFRA. Our objectives were to determine: 1) the County's process to determine the amount of County funds transferred to MCVFRA each fiscal year; and 2) FRS oversight and internal controls to ensure County funds are effectively used to support MCVFRA.

To accomplish our objectives, we met with representatives of FRS, MCVFRA and others, as deemed necessary. In addition, we reviewed County payments made to MCVFRA, expenditures reported to FRS by MCVFRA, MOUs outlining the terms of the agreements for the use of County funds, and financial documents provided by MCVFRA.

Field Work and Management Response

We conducted our fieldwork from July 2009 through February 2010. Our preliminary analysis was provided to FRS management in September 2009. Beginning October 2009, we met with MCVFRA personnel to review expenditures with County funds and on March 18, 2010, the final results of the review were discussed with Executive and FRS management at an exit conference.

The Chief Administrative Officer's response to our review is included as an appendix to this report.



OFFICE OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

April 7, 2010

TO: Thomas J. Dagley, Inspector General

FROM: Timothy L. Firestine, Chief Administrative Officer

SUBJECT: Office of Inspector General (OIG) Review of Payments to the Montgomery County Volunteer Fire and Rescue Association

This memorandum is in response to the Office of Inspector General (OIG) report entitled *Montgomery County Government Payments to Montgomery County Volunteer Fire and Rescue Association (MCVFRA)*. I am also attaching MCVFRA's comments on the OIG report.

OIG Finding

The County's process to fund the Montgomery County Volunteer Fire and Rescue Association (MCVFRA) and the internal controls used by Fire and Rescue Services (FRS) to provide oversight of the funds were not sufficient to ensure effective use of County funds.

Management Response

Disagree. The OIG Finding set out above is based on the fact that the MCVFRA has not yet spent some of the funding it received from the County in FY 2008 and FY 2009. However, as the OIG report acknowledges, the legal agreements that govern the use of these County funds, including the collective bargaining agreements approved by Council for FY 2008 and FY 2009, do not include a deadline for expending the funds.

As noted in the OIG report, the applicable agreements require that MCVFRA use the County funds "exclusively for the compensation of the Executive Director position and the fulfillment of its functions as the LFRD authorized representative." The OIG report acknowledges that MCVFRA has complied with this requirement but expresses concern that "surplus [County] funds appear to be in the custody of MCVFRA." The OIG's use of the term "surplus" funds is confusing because there is no time limit in the applicable legal agreements and County budget resolutions regarding expenditure of those funds.

It should be noted that the County strengthened its oversight authority for funds transferred to MCVFRA with a Memorandum of Agreement (MOA) it entered into with

MCVFRA in June 2009. That FY 2010 MOA authorizes the County to audit MCVFRA's financial records to confirm the appropriate use of funds received from the County.

The level of funding for MCVFRA which is referenced in the OIG report was provided as a result of the direct negotiations process required by Chapter 21 of the County Code. More specifically, the amount of funding provided to the MCVFRA was the result of a mediated settlement and was offered within the context of reaching agreement on a total bargaining package. Both the mediated settlement agreement and the FY 2010 MOA require the MCVFRA to provide the County with a quarterly accounting of the expenditure of the funds. Additionally, the FY 2010 MOA gives the County additional audit authority to ensure the appropriate use of funds.

In sum, we are puzzled by the OIG Finding that "[T]he County's process to fund the Montgomery County Volunteer Fire and Rescue Association (MCVFR) . . . [was] not sufficient to ensure effective use of County funds" given the fact that the County used the legally mandated collective bargaining process, including Council approval of each applicable collective bargaining agreement, to fund the MCVFRA. We would appreciate receiving clarification from the OIG as to how the process outlined in Chapter 21 of the County Code is "not sufficient to insure effective use of County funds." We are also puzzled by the OIG Finding that "the internal controls used by Fire and Rescue Services (FRS) to provide oversight of the funds were not sufficient to ensure effective use of County funds" since there is no evidence that MCVFRA spent County funds for anything other than the legally authorized uses.

OIG Recommendation

We recommend the CAO develop an MOU each fiscal year that clearly states the intended purpose of MCG funds transferred to MCVFRA, and the reconciliation procedures for any surplus funds remaining at the end of each fiscal year, including the surplus funds remaining at the end of FY 2008 and FY 2009. We also recommend the Fire Chief implement an oversight process that reviews and monitors quarterly accounting reports submitted by MCVFRA, and that a financial audit be conducted as outlined in the 2010 MOU with MCVFRA to ensure the appropriate use of MCG funds.

Management Response

The County's collective bargaining agreement with MCVFRA clearly identifies the intended purpose of County funds. We believe that the OIG recommendation set out above speaks to the issue of whether future collective bargaining agreements with MCVFRA should provide different amounts of funding or include a time limit for expenditure of the funds. We will explore these ideas in the context of our future negotiations with the MCVFRA using the process required by Chapter 21 of the County Code. The Fire Chief will continue to review the MCVFRA's quarterly reports to insure that use of County funds is consistent with the intended purpose of those funds and a financial audit will be conducted in the future as was intended when the County drafted and executed the FY 2010 MOA clarifying this audit authority.

Thomas J. Dagley, Inspector General

April 7, 2010

Page 3

cc: Joseph Adler, Director, Office of Human Resources

Joseph Beach, Director, Office of Management and Budget

Kathleen Boucher, Assistant Chief Administrative Officer

Richard Bowers, Fire Chief, Montgomery County Fire and Rescue Service



Montgomery County Volunteer Fire Rescue Association

P.O. Box 1374
Rockville, MD 20849
301-424-1297

Marcine D. Goodloe, President
Eric N. Bernard, Executive Director

MEMORANDUM

March 31, 2010

TO: Timothy L. Firestine
Chief Administrative Officer

FROM: Marcine D. Goodloe
President

Eric N. Bernard
Executive Director

SUBJECT: Response to Draft Report – OIG Review of the Montgomery County
Government Payments to Montgomery County Volunteer Fire and Rescue
Association

We respectfully submit the following comments from the MCVFRA in response to our review of the draft report of the OIG.

Background Information Section:

The OIG reviewed the purpose of the report and their *“focus on the internal controls and management oversight of the County funds used for the compensation and support of the MCVFRA Executive Director position and the process used to determine the amount of County funds to transfer to the MCVFRA.”*

The MCVFRA cooperated fully and timely to all requests and had several meetings with the OIG staff. We supplied all records, documents and papers requested. We did so in good faith and in the spirit of cooperation. We thank the office of the OIG for working with us in a positive manner and process.

The MCVFRA agrees with the summary of the negotiations process and the history of the fund transfers.

Conclusion Section:

The MCVFRA agrees with the finding that their remained a fund balance in our account of \$115,206 but vehemently disagrees with the terminology used describing these funds as being "surplus" as written in the OIG's report. These funds remain in our operating budget and are not required contractually or through any MOU or agreement to be expended during any specific fiscal year. They are being used according to our collectively bargained agreement.

Additionally in the conclusion, the OIG report reads "In the MOU for fiscal year (FY) 2010, senior management recognized the need to enhance the oversight of County funds by adding requirements that MCVFRA maintain an accounting system that would produce reliable financial information relating to the expenditures of County funds. Additionally, this MOU provided the County the authority to audit MCVFRA's financial records annually or by a show of cause to ensure the appropriate use of County funds."

The MCVFRA entered into these MOUs in good faith and was NOT required to sign any of the MOU's and we reject that any further oversight was required. The Association reminds the County that the funds are a result of a collectively bargained agreement as required under Montgomery County Code Chapter 21, FRS, Section 21-6. If the County desires further requirements, the County must NEGOTIATE with the MCVFRA as required by law.

Our collectively bargained agreement is the prevailing document outlining the requirement of the MCVFRA to receive the funding negotiated in our contract.

The side letter of January 25, 2008 reads "the County agrees to transfer \$235,000 to the MCVFRA on July 1 of each year of the Agreement. The MCVFRA agrees to utilize the funds in the payment of expenses related to the Association's fulfillment of its functions as the LFRD authorized representative. The Associations agrees to continue to provide the Fire Chief or his designee with a quarterly accounting detailing the expenditure of said funds.

The County agrees to transfer \$40,000 to the MCVFRA on July 1, 2010 to purchase a vehicle to be used for Association business."

These are the only requirements, period. However, the MCVFRA in good faith, and outside of the collective bargaining process, agreed to the referenced MOU's. Nowhere does the OIG recognize the efforts of the MCVFRA or clearly define the requirements of the MCVFRA to receive funding or how it is to be used. The ONLY requirements are listed in the side letter referenced above.

Findings and Recommendations Section:

The OIG found "The County's process to fund MCVFRRA and the internal controls used by FRS to provide oversight of the funds were not sufficient to ensure effective use of County funds."

We note that the OIG found the MCVFRA internal processes and records complete, correct and in accordance with the principles and standards for accounting and no discrepancies were found.

We again emphasize that any changes to a collectively bargained agreement must be bargained and agreed upon by both parties.

The MCVFRA continues to use the funding provided in accords with our agreement and has no "surplus" funding.

Thank you for the opportunity to comment on the report.

APPENDIX C
OIG Comments on Management Response

The Chief Administrative Officer disagreed with our finding in the management response (Appendix A). We continue to believe that the finding is valid. Those charged with governance of taxpayer dollars had the fundamental responsibility to use County funds efficiently and effectively to achieve the intended purpose of supporting the Executive Director position of MCVFRA. Our analysis determined there was insufficient oversight by FRS to reconcile the County funds transferred to MCVFRA for FYs 2008 and 2009. As a result, the OIG identified the \$115,206 surplus of County funds in the custody of MCVFRA as of July 1, 2009.

Office of Inspector General Staff
(April 2010)

Thomas J. Dagley, Inspector General
Christopher Giusti, Deputy Inspector General
Gary G. Weishaar, Assistant Inspector General

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