



OFFICE OF INSPECTOR GENERAL

Thomas J. Dagley
Inspector General

MEMORANDUM

January 27, 2011

TO: Valerie Ervin, President, County Council
Isiah Leggett, County Executive

FROM: Thomas J. Dagley
Inspector General

SUBJECT: Review of Montgomery County Government Procurement and Payment Practices for Selected Contracts

In accordance with reporting requirements set forth in the County's Office of Inspector General (OIG) law, the attached interim report dated January 7, 2011 with management's response is submitted to you in advance of releasing it no earlier than January 31, 2011. This review is based on information the OIG received beginning in late 2009 regarding allegations of questioned payments to a specific vendor for services provided under contracts executed and administered by Montgomery County Government.

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

Attachment

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





OFFICE OF INSPECTOR GENERAL

Thomas J. Dagley
Inspector General

MEMORANDUM

January 7, 2011

TO: David E. Dise
Director, Department of General Services

FROM: Thomas J. Dagley
Inspector General

SUBJECT: Interim Report - Review of Montgomery County Government
Procurement and Payment Practices for Selected Contracts

Attached please find a January 5, 2011 memorandum from Gary G. Weishaar, Assistant Inspector General, regarding his review of Montgomery County Government (MCG) contract administration and invoice payment practices for Tito Contractors, Inc. (Tito), a Department of General Services (DGS) contractor. This review by the Office of Inspector General (OIG) is in response to information received by the OIG beginning in October 2009 regarding allegations of questioned payments by MCG to this vendor in 2007 and 2008 for services provided under contracts executed and administered by DGS.

Mr. Weishaar's review results include the identification of approximately \$1,219,007 in questioned costs¹ based on tests of 172 invoices approved for payment by DGS contract administrators in FYs 2007 and 2008.

I agree with Mr. Weishaar's recommendations regarding DGS training for contract administrators and the need for additional work to resolve the questioned costs identified from our tests of invoices paid in FYs 2007 and 2008. Based on the information provided to us by MCG, we were unable to determine whether the labor and undetermined costs identified in Appendix A were valid. I also agree with Mr. Weishaar's recommendation that additional tests of other Tito and contractor invoices that were approved by in FYs 2009 and 2010 and the first six months of FY 2011 are needed. The additional testing is needed to determine the extent to which other questioned payments may exist because of inadequate supporting documentation. These

¹ The term "questioned cost" means: a cost that is questioned because of an alleged violation of a provision of a law, regulation, contract, grant, or other agreement or document governing the expenditure of funds; a cost that, at the time of the review, is not supported by adequate documentation; or a finding that the expenditure for the intended purpose is unnecessary or unreasonable.



recommendations appear consistent with our discussion when we met on October 28, 2010. It is my understanding that they are also consistent with the discussion when you met with Mr. Weishaar on December 16, 2010.

Please advise me in writing, by January 25, 2011, of your agreement or disagreement with the finding and recommendations reported by Mr. Weishaar, and any corrective action that has been initiated or planned. Your response will help us determine the follow-up work needed for the OIG to complete this review.

We appreciate the support extended to us by DGS throughout this review.

Re: #0043

Attachment

cc: Kathleen Boucher, ACAO




OFFICE OF INSPECTOR GENERAL

Thomas J. Dagley
Inspector General

MEMORANDUM

January 5, 2011

TO: Thomas J. Dagley
Inspector General

FROM: Gary G. Weishaar 
Assistant Inspector General

SUBJECT: Review of Montgomery County Government Procurement and Payment Practices
For Selected Contracts

This report provides the results of my review of invoices, payments and Montgomery County Government (MCG) procurement and payment practices related to the administration of contracts between the Department of General Services (DGS) and Tito Contractors, Inc. (Tito). This review was based upon allegations received by the Office of Inspector General (OIG) regarding possible questioned payments by MCG to this vendor in FYs 2007 and 2008 for services provided under contracts executed and administered by DGS.

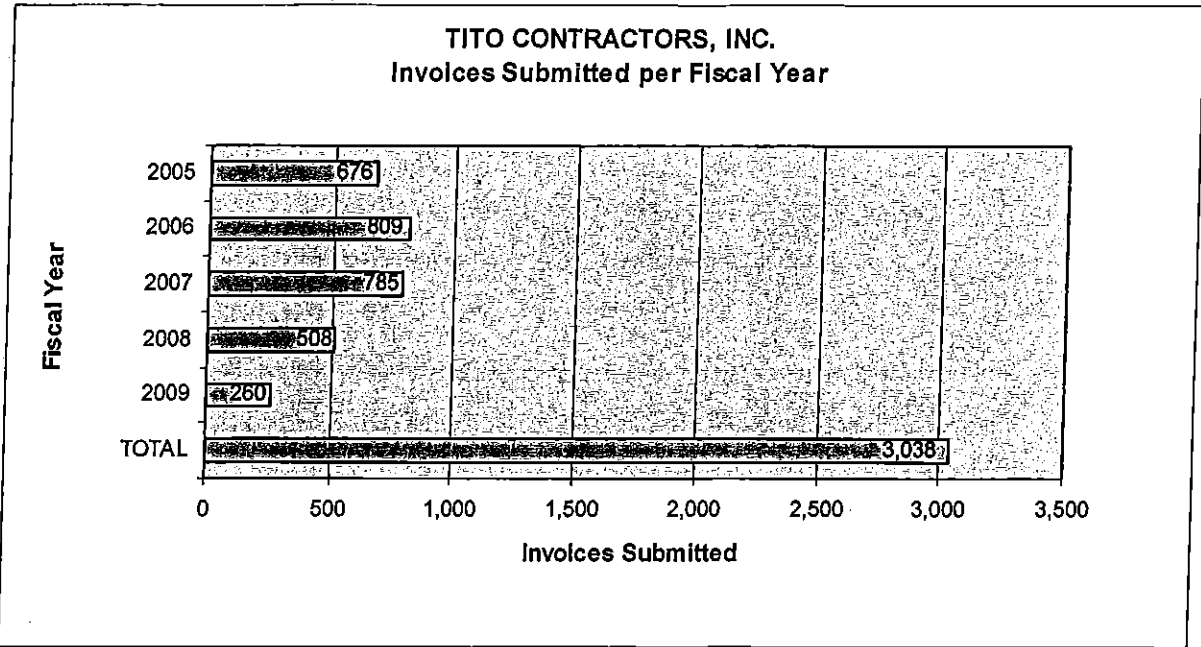
Background

The DGS awarded 18 time and material contracts to Tito from FY 2005 through FY 2009. MCG paid approximately 3,038 Tito invoices totaling over \$14.2 million during this time period. These contracts were for various services, including snow removal, carpentry services, small repairs and restoration of parking facilities, masonry services, parking garage sweeping and miscellaneous cleaning.

Invoices submitted by Tito and payments approved by DGS for the FY 2005-2009 period are presented in Exhibits 1 and 2 below.

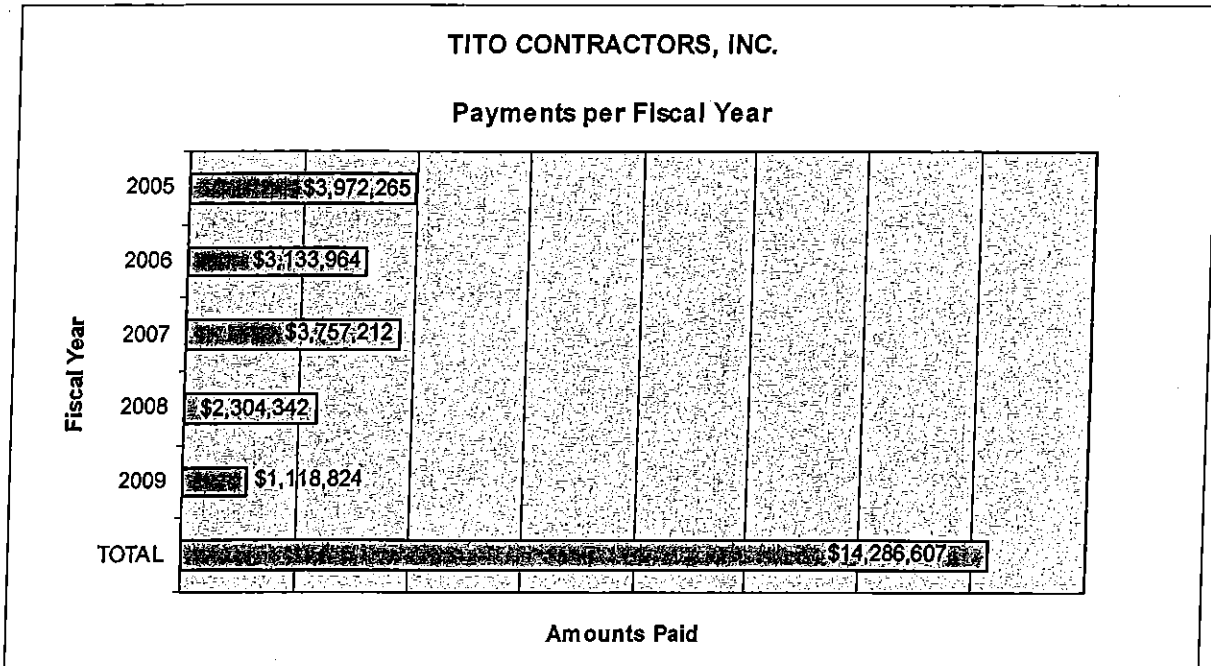


EXHIBIT 1



Source: Department of Finance Data File

EXHIBIT 2



Source: Department of Finance Data File

This review encompassed eight contracts and tests of 172 invoices ranging from \$220 to \$182,464 that were submitted by Tito, approved by DGS contract administrators (CAs), and paid by the Department of Finance in FYs 2007 and 2008. The total dollar amount of the invoices tested was approximately \$1,529,190. The tests were conducted to determine the validity of the allegations and to determine if Tito, along with DGS CAs, complied with DGS boiler plate (BP) contract language and the terms and conditions of specific Tito contracts executed by DGS. This review did not evaluate specific services provided by the contractor to MCG.

OIG Results

Finding 1. Our testing of 172 invoices paid in FYs 2007 and 2008 disclosed that 104 of the invoices lacked supporting documentation for labor costs totaling approximately \$533,477 that were approved by the CA, and paid by the Department of Finance. Additionally, 166 of the 172 invoices tested did not have any supporting documentation for material costs totaling approximately \$232,932. Finally, six invoices totaling approximately \$685,529 did not have any supporting documentation and did not identify if the costs were for labor, material, or another payment category.

Analysis

The OIG reviewed DGS boiler plate (BP) contract language and the terms and conditions of applicable Tito contracts that were executed by DGS and served as the basis to approve and pay the contractor's invoices. Each contract contained specific language which required Tito to submit records of time (labor) with their invoices to the CA for review and approval prior to payment by the Department of Finance. During our testing, we verified with DGS management, CAs, and Department of Finance accounts payable managers that all supporting documentation submitted to MCG by the contractor and available to CAs to approve each payment was provided to the OIG.

The OIG tested 172 invoices ranging from \$220 to \$182,464 that were paid in FYs 2007 and 2008, totaling approximately \$1,529,190, against BP and contract specific attributes to determine compliance with DGS documentation requirements regarding the submission, review, approval, and payment of the contractor's invoices for labor and material costs.

For the invoices that we tested, 166 contained line items for labor and material costs. We determined that a timesheet, or other appropriate record of time, to document labor costs for 104 of the 166 invoices was missing. Based on these test results, we identified approximately \$533,477 as questioned labor costs¹.

In addition, we found that documentation to support the cost and purchase of material was missing for all of the 166 invoices. The BP language stated that material prices are subject to verification only when the material purchased is of a "major cost" and when the receipts are requested by the Director of DGS. The OIG determined that the material costs for the 166

¹ The term "questioned cost" means: a cost that is questioned because of an alleged violation of a provision of a law, regulation, contract, grant, or other agreement or document governing the expenditure of funds; a cost that, at the time of the review, is not supported by adequate documentation; or a finding that the expenditure for the intended purpose is unnecessary or unreasonable.

invoices totaled approximately \$232,932 and ranged from 0% to 100% of the total amount of the invoice. The material costs for the invoices tested ranged from approximately \$11 to more than \$17,000. During our testing, the CAs who approved invoices advised us that it was not a standard practice to request receipts for material costs from the contractor.

For the remaining six invoices which totaled approximately \$685,529, we did not identify any information on the invoices which identified the category(ies) of the approved costs. These invoices, which ranged from approximately \$6,166 to \$182,864, were deemed "undetermined costs²."

The results of our testing of the 172 invoices can be found in Appendix A of this report.

When I discussed the test results with the Director of DGS on October 28, 2010 and December 16, 2010, there was a general agreement that each of the attributes used for testing was critical to ensure the validity and appropriateness of the invoices reviewed, approved, and paid. In addition, there was general agreement that follow-up work by DGS was necessary to determine if the questionable payments identified by the testing were valid. Further, there was general agreement that additional testing of Tito invoices for FYs 2009 and 2010 and invoices of other contractors who provided similar services during this period was needed to determine the extent and significance of any other questioned payments for this type of contracted services.

Finally, the Director of DGS indicated that a management review of the MCG BP contractual language was needed to either quantify or eliminate the use of the term "major cost", to clarify DGS requirements regarding contractors submitting supporting documentation for materials used for each job, and the use of supporting documentation by CAs to review and approve invoices for payment.

Recommendations: We recommend that the Director of DGS provide training to all DGS CAs responsible for Tito contracts and other contractors who provide similar services to ensure that the CAs are knowledgeable and hold contractors accountable to the terms and conditions of the contracts they administer, with an emphasis on the receipt and review of critical supporting documentation needed to properly approve invoices for payment. We also recommend that the Director of DGS determine if the 110 questionable payments (104 for labor costs and 6 for undetermined costs) were valid. In addition, we recommend that DGS conduct further testing of other Tito and contractor invoices that were paid in FYs 2009 and 2010 and the first six months of FY 2011 to determine if the contractors and CAs adhered to the terms and conditions of DGS contracts regarding supporting documentation requirements and whether the payments by MCG were legitimate or require corrective action.

² The term "undetermined costs" means: a cost that was questioned because it was not defined by the contractor as being for labor, material or any other payment category and no supporting documentation was provided to support the amount represented on the invoice.

APPENDIX A

**Schedule of FY 2007-2008 Invoice Test Results
Tito Contractors, Inc.
Montgomery County Office of Inspector General
Project #0043**

Contract Number	Contracted Services	Total Dollars Paid for Invoices Tested	Number of Invoices Tested	Questioned Labor Costs	Number of Invoices with Labor Costs without a Time Sheet	Undetermined Costs	Number of Invoices with Undetermined Costs	Total Questionable Costs ³
7506030152AA	Carpentry services	\$29,332.45	11	\$19,986.45	11	-	0	\$19,986.45
6506060182AB	Snow removal services	\$176,488.40	64	\$12,407.00	2 ⁴	-	0	\$12,407.00
6506030098AA	Masonry services	\$88,609.17	34	\$67,148.50	34	-	0	\$67,148.50
5506030390BB	Parking garage sweeping and miscellaneous cleaning	\$168,693.79	7	\$163,420.76	7	-	0	\$163,420.76
5504510292AA	Small repairs and restoration in parking facilities	\$679,363.00	5	Unknown	-	\$679,363.00	5	\$679,363.00
3502030263AA	Carpentry services	\$279,678.57	47	\$172,447.20	46	\$6,166.45	1	\$178,613.65
3502030076AA	Painting services	\$79,687.73	3	\$71,086.08	3	-	0	\$71,086.08
2505000210AA ⁵	Janitorial services	\$27,337.40	1	\$26,981.90	1	-	0	\$26,981.90
TOTALS		\$1,529,190.51	172	\$533,477.89	104	\$685,529.45	6	\$1,219,007.34

³ Excludes all material costs due to a lack of clear criteria regarding DGS' supporting documentation requirements. See narrative on pages 3 and 4.
⁴ The other 62 invoices, although supported by a time sheet, were not supported by other documentation as required under this contract, such as facsimile reports of all completed work locations, by the occurrence of a snow event.
⁵ This contract number was identified from the tested invoice provided by DGS. All other contract numbers were identified from Department of Finance records.



DEPARTMENT OF GENERAL SERVICES

Isiah Leggett
County Executive

David E. Dise
Director

MEMORANDUM

January 26, 2011

TO: Thomas J. Dagley
Inspector General

FROM: David E. Dise ²
Director, Department of General Services

SUBJECT: Office of the Inspector General - Interim Report - Review of Montgomery County Government Procurement and Payment Practices for Selected Contracts

After reviewing the interim report referenced above, I am in agreement with the findings and recommendations outlined therein related to contract payment practices in the Department of General Services (DGS), Division of Facilities Management (DFM). Ensuring that contracts are well managed is of great concern and has been a focus DFM management since the department was formed in FY09. To that end, the division chief and assistant manager were charged with improving contract management and additional staff has been placed to improve invoice processing and approval.

During the period of time covered by the invoices reviewed by the Office of the Inspector General (OIG), the former Department of Public Works and Transportation (DPWT) was reorganized in FY09 with its various components transferred into or now comprising the departments of Transportation, Environmental Protection and General Services. The former DPWT Facility Management and Operation Section were restructured and became the DGS Division of Facilities Management. A division manager was not recruited until late FY09. Among the first challenges facing this new division chief was organizing the management and back office operations of the new division.

Following is a summary of actions already taken and planned to ensure sustained improvement in contract management and payment practices.

- In FY11 DFM revised its internal process to include an Public Administrative Assistant (PAA), Project Manager (PM) and Contract Administrator (CA) in matching invoices to contracts and supporting documents with the following protocol:
 - Review contract terms and conditions prior to performance

- Administrative assistant date stamps all received invoices and supporting documentation before issuing to project managers and CA for review
 - CA reviews invoices and supporting documents to insure deliverables and performance is in accordance with the contractual terms and conditions
 - Review all costs for determine if they're allowable and allocable to the contract
 - Check and verify labor rates with contracted rates
 - Check and verify material rates with contract rates
 - Check and verify arithmetic calculations are correct
 - Scan/archive all documents used to support approval of payment on invoices
- DGS will conduct further testing of Tito Contractors, Inc. (Tito) and other contractor invoices paid from FY09 to the present to determine the effectiveness of corrective measures already in place and what additional training is required for CAs and PMs. Nevertheless, we will schedule all DFM CAs and PMs to attend, or re-attend, the County's Contract Administrator training, which includes a review of the standard terms and conditions, as well as invoice matching, and accountability standards. This is a valuable refresher whether or not one has already attended the course. We are working with the Office of Procurement to schedule this week long class at the earliest opportunity. DFM has 41 active contracts between 2009 and 2011 totaling over \$8 million. Contracts used by DFM and the Department of Transportation (DOT) will receive further testing based on the OIG's recommendations. A timeline for this work will be established once we retrieve archived records.
 - Regarding 110 "questionable payments" (104 for labor costs and 6 for undetermined costs) DFM with assistance from DGS budget and accounting personnel hasn't been successful in locating any additional records posting labor cost from 2007 to 2008. Please note, DGS has no records for payments related to parking facilities as those facilities are maintained under the direction of DOT. Specifically, the report references these contract payments for work in parking facilities:
 - contract number 5506030390BB total paid invoices of \$168,693.79 for parking garage sweeping and miscellaneous cleaning
 - contract number 5504510292AA total paid invoice of \$679,363.00 for small repairs and restoration in parking facilities (5) invoices undetermined costsDGS will request DOT to review its records for further consideration to validate costs and payments.
 - In reference to the finding that 166 of 172 invoices tested lacked supporting documentation for material costs totaling approximately \$232,932, a thorough review of records verified the lack of documentation in the County's records. Therefore, DGS will approach Tito to determine what records it might still have to support these charges.
 - Revise standard terms and conditions to remove the term "major cost" and require that new contracts direct contractors to submit supporting documents for all purchased items and supplies with invoices that list:
 - Labor hours used
 - Cost per labor hours

- Materials used
- Unit price for materials
- Credit on labor
- Credit on materials and labor

Until such time as the standard terms and conditions can be updated, which requires County Attorney review, this requirement will be added to contracts via a "special provisions" supplement to the contract.

As per my discussions with Assistant Inspector General Gary Weishaar, I have had some prior awareness of the issues detailed in the report, though not to the extent detailed. It is our full intent to follow up on the OIG's recommendations immediately and determine additional supporting documentation on those classified as outstanding and questionable payment. Further, staff is reviewing other DFM administered contracts since FY09 forward to test thoroughness of contract management and accountability and will follow up with any omissions found. DFM staff training will be coordinated within 30 days and our revised protocol for approving invoices is currently being developed for instituting simultaneously with this training.