



OFFICE OF THE INSPECTOR GENERAL  
MONTGOMERY COUNTY MARYLAND

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INSPECTOR GENERAL

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Follow-Up Review to Publication # OIG-19-002: A Review  
of Management Control Deficiencies Contributing to the  
Misappropriation of Montgomery County Economic  
Development Funds

OIG Publication # OIG-21-012

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JUNE 3, 2021

## Why We Did This Review

In November of 2018, we issued report OIG-19-002, *A Review of Management Control Deficiencies Contributing to the Misappropriation of Montgomery County Economic Development Funds*, which detailed control deficiencies that allowed former Department of Economic Development Chief Operating Officer (COO) Byung “Peter” Bang to misappropriate \$7.2 million in County funds. In response to our report, the County identified corrective actions to address vulnerabilities exploited by Bang to facilitate his scheme.

We conducted this review to examine the degree to which the County implemented specific stated corrective actions in response to OIG publication 19-002.

## What We Found

The County’s implementation of AP 2-4 and Accounts Payable policies allow for continued vulnerabilities.

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## BACKGROUND

On November 19, 2018, the Office of the Inspector General (OIG) published report #OIG-19-002, *A Review of Management Control Deficiencies Contributing to the Misappropriation of Montgomery County Economic Development Funds*. The report identified systemic problems and related financial and management control deficiencies which contributed to the misappropriation of \$7.2 million of County government funds by a former Montgomery County employee between 2010 and 2017. The OIG report also included several recommendations to address existing vulnerabilities within County government.

In 2006 the County's now defunct Department of Economic Development (DED) entered into an agreement with the Maryland Economic Development Corporation (MEDCO), a public entity<sup>1</sup>, to support business incubator projects. Former DED Chief Operating Officer (COO), Byung "Peter" Bang was responsible for administering funds and processing transactions related to the agreement. The associated transactions were exempt from County competitive procurement requirements and allowed for the DED to enter into contracts for the procurement, use, or sale of goods, services or construction without competition if they were in the best interest of the County.<sup>2</sup>

County purchases are categorized as "procurement" or "non-procurement". Procurement transactions are subject to County Code Chapter 11B: Contracts and Procurement (Chapter 11B of the County Code), while non-procurement transactions are exempt from 11B requirements. Bang chose to categorize, and process purchases as non-procurement transactions because they were strictly handled at the department level and were not scrutinized by the County Department of Finance (Finance).

At the time, the County did not have formal policies and procedures in place that defined the process for preparing, reviewing, and monitoring non-procurement transactions, and had not delineated roles and responsibilities for County departments to review such agreements. The lack of formal, documented policies for these transaction types resulted in a gap in oversight that failed to identify ineffective department controls and allowed for the misappropriation of County funds.

While serving as the COO, Bang created a fictitious company, Chungbuk Incubator Fund, LLC (CBIF), to which he diverted County funds for his own benefit. He submitted and approved invoices by CBIF and caused Finance to process the payments under the assumption that the invoices were legitimate incubator program expenses. Bang was able to submit several of those invoices utilizing an accounts payable commodity/payment code (commodity code) that

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<sup>1</sup> Montgomery County Code Sec. 11B-1 defines a Public entity as (1) the federal government; (2) a state government and any of its agencies; (3) any political subdivision of a state government and any of its agencies; (4) any board, commission, or committee established by federal, state, or local law; (5) any organization or association of the federal government, state governments, or political subdivisions of state governments; and (6) any other entity that is: (A) qualified as a non-taxable corporation under the United States Internal Revenue Code, as amended; and (B) incorporated by an entity under paragraphs (1) through (5) for the exclusive purpose of supporting or benefiting an entity under paragraphs (1) through (5)

<sup>2</sup> Montgomery County Code Sec. 11B-41. Public Entity contracts.

signified the transaction was exempt from Chapter 11B of the County Code. The inclusion of a commodity code allowed Bang to have payments processed without additional scrutiny by the Finance Accounts Payable Section. Bang was able to perpetuate his fraudulent scheme because of a lack of management oversight, absence of segregation of duties, and his authority and profound knowledge of County processes.

After being alerted by the Internal Revenue Service that Bang was being investigated, the County engaged both staff and contractors to perform reviews of existing accounting controls and investigate and identify potentially fraudulent transactions. The County Office of Internal Audit contracted with SC&H Group, Inc., an accounting firm, to evaluate various accounting internal controls and identify process and control deficiencies related to agreements for transactions that are not subject to Chapter 11B of the County Code. Additionally, the Office of the County Attorney (OCA) retained the advisory public accounting firm Baker Tilly US, LLP (formerly known as Baker Tilly Virchow Krause, LLP) to conduct a forensic investigation of transactions related to the DED and of the County's relationships with certain vendors of the Business Innovation Network, an incubator program. The OIG also initiated a review to identify vulnerabilities in County policies and practices that may have facilitated Bang's scheme. The reviews and investigations identified persistent internal control deficiencies related to non-procurement and financial transactions. The County implemented several corrective actions to address these vulnerabilities.

In the County's published response to the OIG report, the County noted they would implement several corrective actions to "strengthen the controls and processes designed to ensure that County funds are appropriately used and managed to serve the citizens of the County."<sup>3</sup> Of particular importance to this review, on August 14, 2019, the County enacted Administrative Procedure 2-4 (AP 2-4), *Agreements between Montgomery County Government and Other Organizations*, to "establish policies and procedures for the preparation, review, clearance, approval, and monitoring of an Agreement." AP 2-4 was intended to address the vulnerabilities related to the lack of a formal review and approval policy for specific non-procurement agreements, require a unique identifier for matching with invoices, and create a process for accounting for and reconciling advance payments. In addition to implementing AP 2-4, County management revised the *Accounts Payable Policies: Financial Governing Principles and Standards* policy manual (Financial Governing Policy) and enacted the *Accounts Payable Section Policies: Authorized Payment* policy manual (Authorized Payment Policy).

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<sup>3</sup> November 29, 2018 Memorandum from the former CAO, Timothy L. Firestone to Inspector General Edward L. Blansitt; "Response to Final Confidential Draft: A Review of Management Control Deficiencies Contributing to the Misappropriation of Montgomery County Economic Development Funds (including Management's Proposed Corrective Actions)".

## Objectives, Scope, and Methodology

The objective of this review was to examine the degree to which the County implemented specific stated corrective actions in response to OIG publication 19-002.

The scope of our review consisted of control changes that the County asserted it implemented to address the deficiencies identified in OIG publication 19-002 regarding non-procurement transactions and financial management.

We reviewed applicable County legislation, policies, and procedures; interviewed County employees responsible for implementing and monitoring changes to the controls; compared the design of existing controls to corrective actions County management indicated it implemented; and performed internal control and process walkthroughs. We specifically reviewed the County's implementation of AP 2-4, the Financial Governing Policy, and the Authorized Payment Policy as articulated by the County in their published response to OIG report 19-002. We are aware that the County designed and implemented additional controls to mitigate vulnerabilities exposed by the Bang incident, however, they were outside the scope of this review and therefore not examined.

To develop our methodology for performing internal control and process walkthroughs of AP 2-4 agreements, we reviewed two data sets: (1) the ZyIMAGE interface with ProLaw, and (2) the Enterprise Business Intelligence (BI) and Reporting application. We determined these databases to be insufficiently reliable for reporting purposes due to concerns that ProLaw did not contain all AP 2-4 agreements, and transactions found in BI were inaccurately coded.

Our review was conducted between July 2020 and February 2021 in accordance with the Association of Inspectors General Principles and Quality Standards for Inspections, Evaluations, and Reviews by Offices of Inspector General (May 2014).

## FINDINGS AND RECOMMENDATIONS

Our review sought to examine the degree to which the County implemented specific stated corrective actions in response to OIG publication 19-002. During our review we found that although remedial actions were implemented to varying degrees, some vulnerabilities remain. We specifically noted that agreement types not covered by AP 2-4 may require additional evaluation to ensure they maintain equivalent protections; AP 2-4 requirements have not been consistently implemented as intended; policy did not provide for County-level oversight of direct payment (DP) invoices below \$10,000; the County's business application software is not appropriately configured to require the submission of a commodity code for direct payments; and a County department has been allowed to submit direct payment invoices without an authorized commodity code. The implementation of AP 2-4 and other policy changes examined in our review still allow for vulnerabilities that could enable certain non-procurement and financial transactions to escape oversight.

### Applicability of AP 2-4

The various County-initiated reviews and investigations related to the Bang incident identified that Bang circumvented established County processes and oversight by classifying purchases as non-procurement transactions. The County's enactment of AP 2-4 was a direct response to the absence of policies and procedures governing agreements for non-procurement transactions. However, AP 2-4 was designed to only apply to a narrow population of agreements.

An agreement, as defined by AP 2-4, is:

"a contract between Montgomery County Government ("County") and a private or public entity or person requiring the exchange of information, goods, or services, or the transfer of interests in real property with the County, and that is not subject to Chapter 11B of the Montgomery County Code (*Contracts and Procurement*). Agreements may involve payment, including Advance Payments, of County funds to, or the receipt of funds by the County from, the Contactor. Agreements include memoranda of agreement (MOAs) and memoranda of understanding (MOUs)".<sup>4</sup>

AP 2-4 however, does not apply to the following four agreement types: 1) procurement contracts subject to Chapter 11B of the Montgomery County Code; 2) collective bargaining agreements; 3) grant applications by, or grant awards to, the County, which are governed by Administrative Procedures 7-1, *Grant Application*; and 4) exempt transactions listed on the Consolidated Exemptions List. The Consolidated Exemptions List referenced in AP 2-4 exempts an additional 10 identified transaction types from requiring an agreement subject to AP 2-4.

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<sup>4</sup> Montgomery County Administrative Procedure No. 2-4, Agreements between Montgomery County Government and Other Organizations (August 14, 2019)

In our discussions with County management, we learned that these exemptions were intentionally created because the related agreement types had some policies and procedures governing them. However, it does not appear that the County considered whether the policies governing the exempted agreement types provided equivalent oversight to those covered by AP 2-4. Due to scope limitations of this review, we did not assess whether the exempted agreement types had equivalent protections in place but urge the County to do so. The OIG will consider governance of exempted agreement types in future engagements as appropriate.

**Finding:** The County's implementation of AP 2-4 and Accounts Payable policies allow for continued vulnerabilities.

During our review we observed some issues with the implementation of AP 2-4 and applicable policies. We noted issues with the application of a unique identifier to agreements subject to AP 2-4 and with the OCA's inventory of AP 2-4 agreements. We also observed that the County's business application software is not appropriately configured to require the entry of a commodity code for direct payments; a County department was allowed to submit direct payment invoices without an authorized commodity code; and Accounts Payable policy updates did not require County-level oversight of direct payments (DPs) below \$10,000.

#### Unique Identifier and AP 2-4 Agreement Inventory

In response to OIG 19-002, the County stated, "[a]ll Contracts awarded pursuant to Chapter 11B and, pursuant to AP 2-4, all Agreements exempt from or not subject to Chapter 11B have a unique identifier assigned to them that allow the 'matching' of the invoice submitted by the Using Department to Accounts Payable for payment with the relevant Contract/Agreement number". The County attempted to incorporate this provision into AP 2-4 and delegated the OCA with the responsibility of assigning a unique identification number, maintaining an inventory of AP 2-4 agreements, and reviewing agreements for form and legality.<sup>5</sup> However, section 8.2 of AP 2-4 seems to exclude nine agreement types from containing the required agreement provisions (which includes the unique identifier) and the general conditions of AP 2-4.

The OCA maintains the inventory of agreements in ProLaw<sup>6</sup> (the OCA inventory). During our review, we learned that the OCA generally uploads agreements into the inventory when it receives an executed (signed by the CAO) agreement or completes an agreement review. A unique identifier is assigned to an agreement when it is added to the OCA inventory. The OCA

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<sup>5</sup> AP 2-4 Section 6.0 (B)

<sup>6</sup> ProLaw is a database used by the OCA to manage agreement reviews.



## FINDINGS AND RECOMMENDATIONS

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allows County departments to access the inventory to facilitate the matching of an invoice to an agreement number through an application called ZyIMAGE.

While attempting to locate AP 2-4 agreements for testing, we observed inconsistencies between ProLaw and ZyIMAGE. We noted that ZyIMAGE contained documents that were not present in ProLaw. We also found that ProLaw and ZyIMAGE were not configured in a way that allowed for easy identification of agreements subject to AP 2-4 and did not specifically display the information required by AP 2-4 Section 6.0 (C). Of the required information, ProLaw and ZyIMAGE only displayed the unique identification number. We were told during our review that the only way to identify AP 2-4 agreements and obtain related details would be to open each agreement. In our discussion with Finance staff, we were told that retrieving information from the ZyIMAGE interface was administratively burdensome. We observed instances where Finance opted to go to the departments rather than using the ZyIMAGE interface. The fact that AP 2-4 agreements were not easily identifiable hinders the County's ability for matching invoices to agreements.

Additionally, while attempting to locate AP 2-4 agreements we found that not all required agreements were contained in ProLaw. Since we were unable to identify AP 2-4 agreements in the inventory, we queried the County's Enterprise Business Intelligence (BI) and Reporting application to locate payment transactions within our scope period, July 1, 2020 and January 28, 2021, that related to AP 2-4 agreements. We then randomly selected five payment transactions for which we attempted to retrieve the related agreement from ZyIMAGE. We did not find the related agreements for all five selections in ZyIMAGE or ProLaw and subsequently had to obtain them from Finance.

In reviewing the agreements, we found one was subject to AP 2-4 requirements, but not added into the inventory until we inquired, which was seven months after the date the agreement was approved. We additionally found that two agreements were executed before the enactment of AP 2-4 and not expected to be maintained in the inventory. We also found one agreement was not subject to AP 2-4 but was inappropriately coded as such; and one was coded as subject to AP 2-4, but not reviewed by the OCA. Additionally, we observed that amendments to historical agreements (executed prior to the enactment of AP 2-4) are not consistently maintained in ProLaw. Since agreements that are not uploaded into ProLaw are not assigned an identification number, it can inhibit the matching of invoices to related agreements.

The numerous data limitations we experienced prevented us from obtaining a complete listing of AP 2-4 agreements and assessing whether the County fully implemented AP 2-4 requirements. If our review were intended to assess the effectiveness of AP 2-4, we would not be able to perform such a review due to the limited functionality and incompleteness of the OCA inventory as it is currently maintained.

Although AP 2-4 includes a requirement for the OCA to assign a unique identification number to agreements, the procedure does not address how that number should be matched to invoices. All five of our payment selections were obtained from BI, which interfaces with the County's business application software suite ("Oracle"). While making our selection, we noted that there were no agreement numbers in the data, despite having a data field for "Agreement Number". We found that the identification number assigned to agreements by the OCA are not captured in Oracle and therefore are not being used to "match" invoices to the relevant agreement. Instead, a direct purchase order<sup>7</sup> number is used, which does not appear on AP 2-4 agreements.

The County's implementation of assigning unique identification numbers and the OCA's inventory do not meet the CAO's stated intent to address the matching of an invoice to the related agreement number, which still allows for continued vulnerabilities.

### Accounts Payable Policies

Bang exploited vulnerabilities in the County's financial system by coding fraudulent invoices with a specific commodity code to qualify as a direct payment invoice and thereby avoid oversight. In an effort to provide more oversight of direct payment invoices and reduce inherent vulnerabilities, the County issued the Authorized Payment Policy and made revisions to the Financial Governing Policy. The updates provided for limitations on the usage of DPs and reviews of supporting documentation.

The Authorized Payment Policy was created to "provide guidelines on processing of payments made for all purchases within the County".<sup>8</sup> This policy includes controls related to direct payments, which are invoices for transactions exempt from the County's competitive procurement requirements. As of April 1, 2018, the Authorized Payment Policy also prohibited the authorization of direct payments for any invoice of goods or services unless an exemption, represented by a commodity code, is listed on the Authorized Payment Policy Exceptions listing.

During our review we found that Oracle does not mirror the requirements of the Authorized Payment Policy to require the submission of a permitted commodity code for DP invoices. Two senior Accounts Payable staff members perform manual reviews of DPs below \$10,000 in an attempt to identify those with missing required commodity codes. They then contact individual departments to obtain additional information about the appropriateness of the use of a DP. Given the amount of effort involved, requiring the commodity code in Oracle would likely be more efficient.

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<sup>7</sup> A direct purchase order (DPO) is a department issued purchase order that indicates to a vendor that the department has authorized the purchase of goods and services from the vendor.

<sup>8</sup> Accounts Payable Section Policies: Authorized Payment, AD012 Effective: April 1, 2018.

Additionally, during our review, we observed that Finance and the Office of Procurement have been collaborating with the Montgomery County Fire and Rescue Service (MCFRS) for at least three years in an attempt to bring MCFRS into compliance with County policies and regulations related to DPs. MCFRS has been routinely submitting DP invoices without an authorized commodity code to procure engine and automotive parts for the MCFRS. The County maintains that this situation occurred as a result of the Montgomery County Volunteer Fire-Rescue Association being subsumed by MCFRS. The purchases are not identified by policy as transactions exempt from Chapter 11B of the County Code. Suppliers associated with these DP invoices have received more than \$100,000 in fiscal year 2021 without being formally awarded a procurement contract or purchase order<sup>9</sup> as required by Chapter 11B of the County Code. The continuation of this practice creates an opportunity for waste and abuse.

In response to Bang, the County also made changes to the Financial Governing Policy to include controls to strengthen segregation of duties within each County department, implement additional controls to strengthen vendor registration, and require sufficient documentation to support payments for exempt transactions. We examined the updates to the documentation requirements and noted that Finance categorizes DPs into three general categories: 1) invoices below \$10,000, 2) invoices above \$10,000, and 3) invoices from public entities. Payments above \$10,000 require the submission of documentation to Finance and undergo County-level review. In contrast, DPs below \$10,000 are processed and approved at the department level, and documentation is maintained within the department. Excluding DPs below \$10,000 from County-level oversight can allow for opportunities to commit fraud.

## Recommendations

### We recommend the County

- 1) Employ unique identifiers on all AP 2-4 agreements to allow for matching of submitted invoices to related contracts/agreements and strengthen internal controls.
- 2) Maintain an itemized inventory that captures all the requirements of AP 2-4 Section 6.o (C) and includes an identification number, names of responsible parties to the agreement, the total agreement value, an indication as to whether the agreement involves an advance payment or receipt of funds on the County's behalf, and the date of signature by the CAO.
- 3) Ensure that all AP 2-4 agreements, and amendments to agreements, are uploaded into the OCA inventory consistently and timely.
- 4) Update the County's business application software suite to require the entry of a permissible commodity code for direct payments.

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<sup>9</sup> A purchase order (PO) is used by the Office of Procurement to encumber funds for purchases made pursuant to the County's procurement regulations. A PO must be issued by the Office of Procurement prior to performance under a contract.

- 5) Enforce restrictions on direct payments as required by the Authorized Payment Policy.
- 6) Expand existing Finance policies and procedures to enhance oversight over direct payments below \$10,000.

## OIG COMMENTS TO CAO RESPONSE

The Chief Administrative Officer's response to our report is included in its entirety in Appendix A. The response notes concurrence with all of the OIG's recommendations.

As noted in our original report, we acknowledge that the County has implemented changes to key processes since the misappropriation by Mr. Bang. The focus of this review, however, was purposely narrow and did not lend itself to testing the effect of other actions cited in the County's response to this report. The report's finding and recommendations present specific opportunities to strengthen controls and processes related to non-procurement transactions and financial management. The review goes beyond the County's stated interest in mitigating fraud by incorporating the OIG's broader mission of promoting efficiency and effectiveness in government, while identifying opportunities to mitigate not only fraud, but waste and abuse as well. We undoubtedly will evaluate the County's stated action in future department level audits and reviews.

We expect specific details related to the County's actions and plans to implement our recommendations to be included in the Internal Auditor's fiscal year 2021 annual report which, in accordance with County Code §2-25A, is due this fall.

# APPENDIX A: CAO RESPONSE



## OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
County Executive

Richard S. Madaleno  
Chief Administrative Officer

### MEMORANDUM

May 24, 2021

TO: Megan Davey Limarzi, Inspector General

FROM: Richard S. Madaleno, Chief Administrative Officer *RSM*

SUBJECT: Inspector General Confidential Draft Report OIG Publication OIG-21-XXX; *Follow-Up Review to OIG Publication #OIG-19-002*

Thank you for the opportunity to respond to the issues identified in the draft report. As briefly noted in the report, in the wake of the referenced incident involving the previous Department of Economic Development (DED) official discussed in the 2019 OIG report, the County conducted several analyses and reviews to identify where enhanced internal controls were needed to ensure that the types of fraud perpetrated by the former DED official would not occur in the future.

As noted in the draft report, the review conducted by the OIG was limited in its scope to findings and recommendations identified in the 2019 OIG report. While a number of the enhancements implemented by the County are referenced in the draft OIG report, including the issuance of Administrative Procedure (AP) 2-4, the report fails to discuss other changes implemented to strengthen the procure-to-pay control environment, including the following, some of which were noted in the 2019 OIG report:

- Establishment of a unit (Financial Analysis, Audit, and Compliance (FAAC) Section, Division of the Controller) to enforce requirements related to purchases exempt from or not subject to Procurement Regulations. FAAC is responsible for approving Direct Purchase Orders (DPOs) greater than \$10,000.
- Enhanced post-payment reviews performed by FAAC, including post-payment audits of Accounts Payable transactions and post-payment review and analysis of transactions potentially split to avoid compliance with the Procurement Regulations.
- Enhancements made in the vendor registration process to prevent the establishment of a fictitious company through which fraudulent payments could be made, as was the case in the DED incident.

We believe that the implementation of AP 2-4 has largely accomplished its intended goals. Where previously there had been no set policy or procedure for the development of agreements for certain

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non-procurement transactions, there is now a clearly delineated set of procedures to be followed to obtain approval by the necessary County personnel. AP 2-4 also prescribes a reasonable set of base contractual provisions that, with certain exceptions, are to be included in each Agreement subject to the AP. Finally, the AP provides for the method by which the Agreements are to be inventoried for future reference. Collectively, these procedures in conjunction with the policies referenced above have almost certainly accomplished the goal of making the County less susceptible to the type of fraud perpetrated by the former DED official. It is unfortunate that the draft report does not present a more comprehensive and balanced presentation of the enhancements implemented by the County in response to the DED incident to strengthen the control environment, particularly given the importance of these issues.

When the County developed and issued AP 2-4, it was designed to address those underlying processes and internal controls where weaknesses were identified through the County's analyses and reviews, including those findings contained in the 2019 OIG report. The AP was specifically not intended to address all types of transactions processed by County departments. In exempting certain types of transactions such as acquisition by the County of alcoholic beverages, and employee retirement program transactions and investments from the detailed requirements set forth in the AP, the County's decision to exempt such transactions from the AP was based on a determination that other processes and controls existed for such transactions, and the process and controls established by AP 2-4 were not appropriate for and did not reflect enhancements to existing processes/internal controls governing such transactions. It is also important to note that these exempt transactions (not subject to AP 2-4) do not lend themselves to the types of fraud perpetrated by the previous DED official.

We acknowledge that in any program or process, there are opportunities for improvement and strengthening of the internal controls and management processes. Certainly, there are challenges and difficulties inherent in the implementation of any new program or process, requiring time and attention to work through such issues. The implementation of AP 2-4 is no different in that regard and the County is committed to its improvement. We concur with the recommendations reflected in the report and will take appropriate actions to further strengthen the existing controls and processes as noted in the report.

Thank you for bringing these matters to our attention.

cc: Fariba Kassiri, Deputy Chief Administrative Officer, Office of the County Executive  
Michael Coveyou, Director, Department of Finance  
Marc Hansen, County Attorney  
Ash Shetty, Director, Office of Procurement  
Bill Broglie, Internal Audit Manager, Office of the County Executive