

MONTGOMERY COUNTY MARYLAND

OFFICE OF THE INSPECTOR GENERAL



Annual Report of Activity
for the
Fiscal Year Ended June 30, 2013

September 30, 2013





A Message from the Inspector General

Montgomery County Code §2-151 requires the Inspector General to submit to the County Executive and Council an annual report on the activities of the Office and its major findings and recommendations during the previous fiscal year. This message presents our report for the fiscal year ended June 30, 2013 and complements the report issued June 11, 2013, *Report on Implementation of Work Plan and Budget for Fiscal years 2012-2013* (progress report).

The progress report describes our efforts relative to the five work plan initiatives we implemented during FY 2013: (1) *form an informal Inspector General advisory group*, (2) *convert operation of the OIG fraud hotline from a contractor-supported activity to a staff-supported activity*, (3) *use contract audit support to conduct specific performance audits*, (4) *leverage resources*, and (5) *proactively identify opportunities for improvement*.

The progress report also describes three important organizational improvements completed during FY 2013:

- a survey of Montgomery County employee attitudes toward the Office of Inspector General;
- significant modification and improvement to the Office of the Inspector General's web site;
- a comprehensive Manual for Audits and Investigations.

During FY 2013, 75 new incident reports were recorded, 28 of which were closed following our intake review, 29 of which had been reviewed and/or referred and completed, and 18 of which were in progress as investigations, inquiries, and referrals as of June 30, 2013. Five of the eight matters that carried over from FY 2012 to FY 2013 were also in progress as of June 30, 2013.

We issued and made available to the public the following reports:

- *Review of the Montgomery County Public Libraries Collection Management Procurement Internal Controls* (October 2012).
- *Review of Montgomery County Commercial Property Tax Assessments* (January 2013).

- *Allegations of Failure to Discharge Statutory Duties by the Montgomery County Department of Permitting Services Regarding Construction Work on the “Monty” Project* (February 2013).
- *Administration of Montgomery County Department of Transportation Tree Planting Services Contracts* (April 2013).
- *Audit Survey of Selected Department of Economic Development Operations* (June 2013)

Summaries of the reports issued are detailed in the body of this annual report.

The more significant referrals and inquiries completed that did not result in formal reports but which nonetheless addressed important concerns are also identified in the body of this annual report.

The activities identified in this annual report evidence the value of this office in furthering the County’s efforts to ensure integrity as well as effective and efficient use of County resources. I recognize and appreciate the significant assistance and support provided to this office by Council members, the County Executive, other elected and appointed County leaders, and their staffs during this year.

Respectfully submitted,



Edward L. Blansitt III
Inspector General

Annual Report of Activity for the Fiscal Year Ended June 30, 2013
Montgomery County Maryland, Office of the Inspector General

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Montgomery County Maryland, Office of the Inspector General

Mission and Goals

The mission of the Office of the Inspector General (OIG) is to conduct objective and independent audits, inspections, and investigations relating to the programs and operations of Montgomery County Government (MCG) and independent County agencies to:

- promote economy, efficiency, and effectiveness
- prevent and detect fraud, waste, and abuse
- promote legal, fiscal, and ethical accountability
- inform stakeholders of problems and corresponding corrective actions

Statutory Responsibilities

Our office was established by the Montgomery County Council in 1997. We are an independent office that adheres to Government Auditing Standards,¹ the Quality Standards for Inspection and Evaluation² and the Quality Standards for Investigations³ in addressing the following responsibilities prescribed by Montgomery County Code §2-151:

1. review the effectiveness and efficiency of programs and operations of County government and independent County agencies
2. prevent and detect fraud, waste, and abuse in government activities
3. propose ways to increase the legal, fiscal, and ethical accountability of County government departments and County funded agencies⁴

To carry out our responsibilities, we:

- maintain an independent objective organization to conduct audits, reviews, and investigations;
- take appropriate action to prevent and detect fraud, waste, and abuse
- receive and investigate credible complaints related to our mission from any person or entity;
- report possible criminal violations of law to the appropriate law enforcement agency;
- review existing and proposed legislation and regulations to strengthen controls and increase accountability;
- submit reports with recommendations, as appropriate, to County leaders.

¹ *Government Auditing Standards*, U. S. Government Accountability Office.

² *Quality Standards for Inspection and Evaluation*, issued by the Council of the Inspectors General on Integrity and Efficiency.

³ *Quality Standards for Investigations*, issued by the Council of the Inspectors General on Integrity and Efficiency.

⁴ In addition to the Executive Branch, the County funded agencies include the Montgomery County Public Schools, Maryland-National Capital Park and Planning Commission, Washington Suburban Sanitary Commission, Montgomery College, Housing Opportunities Commission, Revenue Authority, and any other governmental agency (except a municipal government or a State-created taxing district) for which the County Council appropriates or approves funding, sets tax rates, or approves programs or budgets.

Our Challenges

Since our small staff of well-qualified professionals, cannot have all the varied, specialized skills needed to approach all complex investigations and reviews, we fill any skill gaps with contractor specialists and temporary staff who provide investigative, information technology, and specialized audit skills.

Audit and Investigative Standards/Professional Development

During FY 2013 we completed the development of a comprehensive Manual for Audits and Investigations (also described below under the “Organizational Improvements” heading). The Manual incorporates relevant information from procedures manuals created by my predecessors, our specific methodology, and the most recent authoritative standards and guides to address the statutory responsibilities and initiatives of the Office of the Inspector General.

Professional Relationships

During FY 2013, we met with state and federal auditors and prosecutors and other Inspectors General and participated in meetings of the FBI Public Corruption Working Group. During these meetings, standards applicable to the Inspector General community were discussed along with other matters of mutual interest. Discussions were useful in identifying and prioritizing matters to be addressed. They also helped ensure that OIG audits and investigations did not duplicate or conflict with other efforts.

Implementation of Work Plan and Initiatives

Our June 11, 2013, *Report on Implementation of Work Plan and Budget for Fiscal years 2012-2013* provides a detailed explanation of our accomplishments relative to the Work Plan for Fiscal Years 2012-2013 including the five initiatives identified therein.

Organizational Improvements

During FY 2013 we completed three important organizational improvements completed during FY 2013:

- development of a survey that was sent to all Montgomery County employees to obtain a baseline of employee awareness related to the existence of and attitudes toward the Office of Inspector General;
- 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 support the County’s “Open Montgomery” initiative;
- as discussed earlier, development of a comprehensive “Manual for Audits and Investigations” that presents our specific methodology as well as the most recent authoritative standards and guides.

FY 2013 Incident Processing and Resolution

Eight matters were carried over into FY 2013 from FY 2012, three of which were closed in FY 2013. Of 75 new incident reports recorded in FY 2013, 28 were closed following our intake review, 29 have been reviewed and/or referred and are now completed, and 18 were in progress as audits, investigations, inquiries, or referrals as of June 30, 2013.

With regard to each incident report, our policy is to develop a written description of each case on which we spend some time on behalf of the caller. We do not record wrong numbers or immediate referrals of incoming misdirected calls. Of the 75 cases that we logged, we found 47 to be initially credible, deserving at least some preliminary inquiry. Summaries of the referrals for which responses have been received and the more significant inquiries for which reports were not issued follow the summaries of reports issued in FY 2013.

Performance Measures

The OIG work plan places the highest priority on timely investigation of matters and responding to stakeholders as to those matters.

Performance Measure	Budget	Actual
Percent of incident reports reviewed and action initiated within 5 business days:	90%	96%
Complete inquiries within 60 days:	70%	84.4%
Percent of incident reports resolved or referred to management within 90 days:	70%	95%
Percent of audit/inspection/investigation reports completed within 6 months:	50%	40%
Percentage of audit/inspection/ investigation recommendations accepted:	67%	100%

Summaries of FY 2013 Reports

In FY 2013, the OIG completed and issued the following publicly available reports.

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

Background

The Office of the Inspector General (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 are 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 are 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 Chief Administrative Officer's (CAO) 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 which was provided to 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 recommendations. A new comprehensive manual to govern administration of the purchasing of library materials was recently approved and currently in use by MCPL.

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 (SDAT) 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 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 devoted significantly fewer resources to challenging inaccurate property assessments than it did during the 1990s and early 2000s, and consequently it was significantly less active in carrying out its responsibilities under §20-41A. The Department of Finance appealed fewer assessments than it did in previous years, and it did 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 and Outcomes

The CAO agreed to implement all seven of the report's recommendations. The CAO agreed to fill a new position to be focused on assisting the Department of Finance on property tax assessment related issues as identified in the OIG report.

Allegations of Failure to Discharge Statutory Duties by the Montgomery County Department of Permitting Services Regarding Construction Work on the “Monty” Project (Feb. 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 the “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 on-going construction of the Monty.

The Monty was under construction at 4918 St. Elmo Avenue in Bethesda. It is a 17-story apartment building with a 4-level underground parking garage. It was owned by Bainbridge St. Elmo Bethesda Apartments, LLC (Bainbridge). White Flint owned 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 and no recommendation or follow-up action was required.

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.

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 the 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 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,
- 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 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 Contract Administrator's mismanagement to the contractor who was his then employer, and his 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 either Code section.

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

Key Points in the County Chief Administrative Officer's Response

The CAO response indicates agreement with all of our recommendations. He acknowledges that improvement in the administration and enforcement of the TPS contract is necessary, and indicates that MCDOT's Director has 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 was 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 states that those deficiencies discovered in the 2012 planting season had either already been corrected or would 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 had 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 acknowledged that improvement in the administration and enforcement of the tree planting services contract was necessary. The CAO reported that the MCDOT Director had already taken some corrective actions and was in the process of making other improvements in response to the OIG report and input from the OIG and the County. In a subsequent hearing before the Council Government operations Committee MCDOT indicated corrective actions were underway relative to all of the deficiencies noted in our report, thus avoiding most, if not all of the potential loss.

Audit Survey of Selected Department of Economic Development Operations (June 2013)

Background

The OIG conducted a survey of the Department of Economic Development (DED)’s operations in making grants and loans, principally the fiscal impact information provided to the Council in support of proposed Economic Development Fund (EDF) grants and loans. During our survey, the County Office of Legislative Oversight (OLO) issued a report on the County’s economic development incentive programs, which included a review of DED’s monitoring of EDF grants and loans. In order not to duplicate work done by OLO, we did not review DED’s monitoring.

Key Points in the OIG Report

For proposed offers of assistance of more than \$100,000, DED's typical practice is to provide an analysis of the expected County benefits and costs, using a spreadsheet-based "Fiscal Impact Model" developed by the Department of Finance (DOF). Most of the assumptions supporting the standard Fiscal Impact Model are not apparent from reading the printout of the model's results. They are embedded in the formulas used to populate each cell. The embedded assumptions include, for example:

- The average home value for new employees is 5 x the combined salaries of the household.
- The taxable salary of new employees is 80% of gross pay.
- 60% of the new employees will live in Montgomery County, causing new investment in County home ownership.
- A spouse or other additional employee in a household will earn 80% of the salary of the new employee, causing new County income tax revenue.
- There will be .4 Montgomery County Public Schools students per household.

During our survey, County Code §20-75 was amended. The amended section requires that the Council be provided with "each assumption, variable, and model used to generate estimates of employment and tax revenue gains" for proposed assistance of more than \$100,000. We opined that the more significant embedded assumptions used in any specific fiscal impact analysis should be communicated to the Council. However, our survey resulted in no formal findings or recommendations. We may perform audit verification in the future, after DED has submitted several proposals under §20-75(b), as amended.

Key Points in the County Chief Administrative Officer's Response

The CAO had no disagreements with our report. He indicated that DED and DOF are working together to fully satisfy the requirements of County Code §20-75(b). He provided us with sample information DED submitted to the Council to meet the requirements of §20-75(b) as amended.

Key Outcomes

The President of the Council wrote to the OIG that the Council looks forward to continuing to work with DED to ensure that the Council and the public are provided with adequate and accurate information in support of economic development activities.

Summaries of Referrals to Which Responses Were Received in FY 2013

OIG-13-001

Potential misuse of County resources

Complaint Summary: A complainant alleged that a neighbor used a County public safety van to deliver a generator (possibly also County-owned) to the neighbor's house and used it when the neighbor's power was out following the June 2012 "Derecho" storm. The OIG referred this matter to the Chief Administrative Officer (CAO).

Outcome: The CAO advised the OIG that the individual had been granted use of a County vehicle to transport a privately-owned generator to the home where Fire and Rescue Service rescue dogs were being sheltered in order to help keep the animals cool during the blackout.

OIG-13-011

Control over cash receipts

Complaint Summary: Complainant stated that he usually does not receive an admission ticket upon paying fees at most County high school athletic events he has attended, other than football games. Complainant believed it was likely that theft was occurring, because the athletic directors are only held accountable for cash receipts corresponding to the number of tickets issued.

Outcome: The Montgomery County Public Schools (MCPS) advised the OIG that there are system-wide procedures in place throughout MCPS for admissions' control and ticket accounting. School audits and random observations have indicated the procedures were followed and there are periodic reviews at athletic director/school business administrator meetings.

MCPS explained that for many events, only one individual is available for ticket sales. The procedure is to accept the buyer's money, remove a ticket from the roll, destroy the ticket, stamp the buyer's hand, and then deposit the ticket into a box. Many schools do not allow the buyer to retain the ticket because most of the tickets end up on the ground, creating extra trash to pick-up.

OIG-13-012
Misuse of County position

Complaint Summary: Complainant reported that he observed a Department of General Services (DGS) employee using his position as the property manager to receive free food in the cafeteria.

Outcome: The OIG referred this matter to the Chief Administrative Officer (CAO). The CAO investigated the matter and found the employee violated the county's Ethics laws and corrective actions were taken. Actions were taken to ensure better compliance with Ethics Laws and improve internal controls.

OIG-13-036
Potential employee misconduct

Complaint Summary: A former County employee reported issues related to the working conditions at the Wheaton Urban District. Complainant alleged that one supervisor was often drunk at work and purchased a new appliance for his personal residence with County funds; that another supervisor watched pornography at work and would leave work to visit his girlfriend; and that another supervisor used racist and intimidating comments toward his employees. Another complainant subsequently also brought similar issues to the OIG.

Outcome: The OIG conducted interviews and referred this matter to the Chief Administrative Officer (CAO) who conducted separate interviews, after which appropriate actions were taken.

OIG-13-047
Possible misuse of fire hydrant

Complaint Summary: Complainant alleged that a company is inappropriately using water from a fire hydrant to wash its vans between 5 and 7 pm daily. The company uses its own wrench to open the hydrants.

Outcome: The OIG referred this matter to the Washington Suburban Sanitation Commission (WSSC). WSSC responded to the OIG that businesses are able to purchase fire hydrant use licenses and the company has a fire hydrant use meter.

OIG-13-052

Alleged misrepresentation of qualifications for employment

Complaint Summary: The OIG received an anonymous complaint alleging that a Department of Economic Development (DED) employee lied on his resume when he applied for his current position. The complainant claimed that the employee does not have a Bachelor's Degree but that he claimed that he did on his resume.

Outcome: This matter was referred to the Chief Administrative Officer (CAO). The CAO responded they received an identical complaint about the same subject in 2009 and determined the complaint was unfounded.

OIG-13-065

Alleged improper claim of residential status to avoid real property tax

Complaint Summary: The complainant alleged that his neighbor bought a second house and started renting out his first house in 2009. The complainant alleged that the neighbor claimed both of these homes qualified for the Homestead Property Tax Credit, which is only for owner-occupied residences.

Outcome: The OIG verified the complainant's information and determined that the complainant was correct. OIG referred this information to the County Department of Finance for action.

Summaries of Inquiries Closed in FY 2013 (not previously reported)

OIG-12-008-1

Misrepresentation of assets on Housing program application

Complaint Summary: A complainant stated that a recipient of rental assistance under the Housing Choice Voucher program originally filed an incomplete application with the Housing Opportunities Commission (HOC). Specifically, it was alleged that the form omitted a \$12,000 bank account.

Outcome: Assets do factor in determining the extent of a participant's subsidy, but only to the extent that the participant receives income from the asset. The amount of income generated from this small amount of savings was insignificant and did not affect the eligibility of that recipient.

OIG-12-042

Inaccurate County real estate tax roles

Complaint Summary: The Baltimore Sun reported, generally beginning in August 2011, that a number of taxpayers in the City of Baltimore had received homestead tax credits inappropriately for several years. The OIG received several letters asking us to look into homestead tax credits, asserting that Montgomery County had the same problem. For example, a caller to the OIG complained that the residential property formerly owned by her deceased brother had been foreclosed after his death and was now listed on the County real estate tax roles as belonging to the bank, but was still identified as receiving the homestead property tax credit.

Outcome: This issue had been raised by Council staff and Council members prior to the complaints having been received by the OIG. The OIG staff met with the County Department of Finance and SDAT to discuss this matter and understand actions planned by the County and SDAT. The actions taken are addressed in the OIG report entitled Review of Montgomery County Commercial Property Tax Assessments, dated January 10, 2013, finding 3c.

OIG-13-014

Allegation that false information was provided to the Planning Board

Complaint Summary: Complainant alleged that Maryland- National Capital Park and Planning Commission (M-NCPPC) planning staff presented fraudulent information to the Planning Board, which the Planning Board relied on when limiting development on certain properties. The complainant alleged that planners intentionally misrepresented the percentage of surface area that was impervious in the nearby Rural Cluster (RC) zone, stating it was lower than a study showed, in order to convince the Planning Board to set a limit of 8% on imperviousness. The previous limit had been 10%, and property owners were requesting a higher limit over 8%. The

Planning Board ultimately recommended the 8% limit. The complainant stated that one planner made false statements in a video on the Planning Board website, and that another planner made false statements to the Planning Board. The complainant also referred to a letter from an attorney criticizing a graph presented to the Planning Board.

Outcome: OIG staff reviewed the videos of the planner and of the Planning Board meeting. In both of these videos, planners presented information on imperviousness in the whole RC zone, not just on a particular property. In presenting the graph to the Planning Board, planners referred to the imperviousness in the watershed, not just on a particular property. OIG found no evidence that would support the complainant's allegation.

OIG-13-015
Alleged misuse of public resources

Complaint Summary: The Montgomery County Fraternal Order of Police requested that the OIG investigate actions by County employees in support of a ballot question, Question B. Question B asked the voters to vote for or against Bill 18-11, which had been enacted by the County Council and signed by the County Executive. The complainant alleged that there was a misuse of public resources to promote a political position, and that the information disseminated by the County was false and misleading.

Outcome: The IG determined that a written opinion from the County Attorney stated that County Government could legally engage in efforts to persuade voters to support the Bill in question. The IG responded that the allegation regarding the use of public resources in support of Question B was addressed by the Maryland State Prosecutor in an Oct. 26, 2012 letter in which the State Prosecutor referred to that opinion letter from the County Attorney. The State Prosecutor did not fully agree with the conclusions of the County Attorney; however, he stated that the County Attorney's legal opinion was not unreasonable and was relied upon in good faith by the County and its personnel.

Regarding the allegation that the information disseminated by the County was false and misleading, the IG responded that nothing in the Maryland Election Law Article addresses the truthfulness of electioneering arguments, and that the OIG found the statements to be consistent with a reasonable interpretation of information provided to the Council and available to the public during deliberations on the Bill.

OIG-13-024

Alleged improper procurement action

Complaint Summary: Complainant alleged that the Washington Suburban Sanitation Commission (WSSC) solicited bid proposals for an engineering contract and received six responses. WSSC then asked the low bidder to extend the bid time in order to allow more time for evaluation. When the low bidder declined, the complainant (a WSSC employee) was asked by his supervisor to contact the low bidder and ask if they would accept more money from WSSC if the bidder would accept the contract, with additional money. The employee refused and was terminated 13 days after refusing to contact the bidder, which he believed was an improper procurement action.

Outcome: The OIG discussed this complaint with WSSC General Counsel and identified no violation of law, regulation, or rule related to the procurement action.

OIG-13-035

Alleged misuse of position

Complaint Summary: The complainant, a lawyer, states he was working with the Historic Preservation Commission (HPC) to have the HPC approve plans to renovate a property. He was concerned about possible inappropriate actions of the Chair of that Commission.

The complainant had a preliminary consultation meeting with HPC to discuss the renovation plans. Following that meeting, the Chair of the Commission, a legal recruiter, allegedly contacted the complainant via voicemail and offered to discuss job opportunities. The complainant did not return the call and the Chair allegedly sent numerous follow-up messages, to which he did not respond. Subsequently, the complainant worked with HPC staff to make the renovation plans more acceptable to the Commission and presented the plans to the HPC. The complainant stated the Chair acted aggressive and rude, and the plans were voted down. The complainant stated he believed the HPC denial and the Chair's inappropriate actions were the result of his failure to respond to the Chair's recruitment inquiries.

Outcome: The OIG did not find evidence to support complainant's assertion that the Chair was using the position with HPC to further the Chair's business interests. The OIG reviewed the transcript of the meeting and did not find evidence of inappropriate behavior by the Chair. The OIG determined that the complainant's contact information was not difficult to obtain and that it was unlikely the Chair got his name solely from his HPC case. The OIG subsequently contacted the complainant who at that time acknowledged that he is occasionally contacted by other recruiters.

OIG-13-041

Potential vulnerabilities resulting from program procedures

Complaint Summary: Complainant voiced concerns with the County's Call & Ride program, (relatively new as of the date of the complaint) which provides subsidized taxi rides for low income persons with disabilities. The complainant initially contacted the County's Office of Consumer Protection and was referred to the OIG. The Complainant had numerous concerns: a new contractor is handling payments and the coupon books are being replaced with a swipe card; if a card has a balance aged 90 days with no taxi use, the balance is removed from the card and participants do not have a method for determining whether a card has a balance that is set to expire soon. The form sent to each participant states, "Please allow 10 days for payments to be posted to your account." The complainant believed the money should be available when it is received by the contractor and these issues put the County at risk of fraud and/or theft.

Outcome: OIG staff met with the County Department of Transportation personnel and spoke with the services manager of an apartment building where many Call & Ride users live. The OIG found no indication that any violation of law, regulation, or rule had taken place. Complainant's concerns are program issues, some of which had been already addressed.

OIG-13-044

Alleged violation of law

Complaint Summary: The OIG received an anonymous complaint alleging that two supervisors in the Fire and Explosive Office hold their positions in violation of Maryland Criminal Procedure Title 2 -208.1, which requires a fire and explosive investigator to be assigned full time to the Fire and Explosives Investigations Section. The complaint also reported the employees have the ability and opportunity to act as Montgomery County Police Officers, with department issued handguns and law enforcement credentials. The complainant alleged that the two supervisors were not employed in full time positions.

Outcome: The OIG contacted the Human Resources Director who certified to the OIG the two individuals are full-time employees.

OIG-13-058

Allegation that County lease negotiation resulted in excessive costs

Complaint Summary: A County Councilmember's office forwarded a constituent's complaint that the County is willing to overpay for a lease on a privately owned building. The complaint included a link to an article in *Baltimore CityBiz*. The OIG received another complaint with a link to the same article published in the *Maryland Reporter* the same day. The article claims that Montgomery County recently signed a lease to pay \$31 per square foot to lease 5500 square feet on the building while space in the same building is listed at \$26.50 to \$27.50 per square foot. A local realtor was cited as saying the County should renegotiate the lease.

Outcome: OIG contacted the County Office of Real Estate and was advised there were many legitimate considerations taken into account during the original "deal", including geographical constraints and potential use of the building space 24/7. The County did not have any money in its budget for the tenant improvements (TI) and asked the landlord to fund significant TI (such as a build-out) and included the cost within the lease cost. The County made available an analysis that OIG reviewed.

OIG-13-063

Alleged misuse of position

Complaint Summary: Complainant reported that a teacher at the community college is also co-owner of a day-care provider, which is subsidized by the County. This teacher had students at the college work for her day-care firm for course credit and without pay. Complainant believed this was a conflict of interest. This matter was also sent to the General Counsel of the college, the school's President, and the State Department of Education Office of Child Care.

Outcome: The college advised the OIG that the teacher has not been at the school since 2011. The teacher denied the charges, and the students are no longer at the college.

OIG-13-064

Alleged tax underassessment of cell phone towers on government owned land

Complaint Summary: A complainant alleged that government owned real properties with cell towers should be assessed by State Department of Assessments and Taxation (SDAT) based on the capitalized value of each lease. SDAT provides the County with these assessments and the County sends property tax bills to the lessees of the towers. Some lessees pay the tax and some do not. The County has not placed liens on these properties for unpaid RE taxes. The complainant believed that the County could seek to collect revenue from the current year plus 3 back years, including penalties and interest.

Outcome: The SDAT Director responded to the OIG and the Complainant. SDAT advised that the real property tax is not based on the assessed values of the towers but is instead determined

by the capitalization of income approach (a method used to estimate the value of income producing real estate). The cell phone tower companies pay personal property taxes on the towers to Montgomery County. The tower foundations are assessed in the first year at the original cost of the equipment, with a fixed depreciation schedule for subsequent years. Further, Government owned real estate is not subject to liens or tax sales.

OIG 13-068

Alleged improper claim of residential status to avoid real property tax

Complaint Summary: Complainant alleged that a U.S. Congressman is improperly claiming tax credits under the Homestead Property Tax Credit for a property he owns in Montgomery County, although as a representative of California he publically claimed to be a California resident. Owners eligible for the Homestead Property Tax Credit may also qualify for a County income tax offset credit.

Outcome: The OIG determined the Congressman is no longer claiming either credit. Further, the State Department of Assessments and Taxation changed its records to indicate that the property in Montgomery County is not his principal residence.

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