
Inspector General's Annual Report of Activity

for fiscal year 2019

July 1, 2018 - June 30, 2019

August 28, 2019

Montgomery County Maryland
Office of the Inspector General



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A Message from the Inspector General

Each year, the Office of the Inspector General (OIG) publishes formal reports that detail significant findings and recommendations. During the fiscal year (FY) ending June 30, 2019 this office completed the following 7 work products, which were made publicly available.

- Preliminary Inquiry Memorandum: *Proposed Disposition of the former Silver Spring Library*
- Advisory Memorandum: *Erroneous Receipt of Pension Benefits by a Participant in the County Retirement System*
- Report: *A Review of Management Control Deficiencies Contributing to the Misappropriation of Montgomery County Economic Development Funds*
- Preliminary Inquiry Memorandum: *Proposed Duplicative Expenditures at County Fire Stations*
- Report: *Inspector General's Mid-Year Report of Activity for Fiscal Year 2019*
- Report: *Montgomery County Public Schools Workers' Compensation Program*
- Report: *Telework Program of the Montgomery County Public Schools*

Summaries of each publicly available work product are presented in the body of this report, with exception of the *Inspector General's Mid-Year Report of Activity for Fiscal Year 2019*, which is included in its entirety in Appendix A to this report.

After the end of FY 2019, this office also finalized and issued the following four reports that were substantially developed during FY 2019:

- Report: *Accounting, Procurement, and Personnel Internal Controls Failed to Detect Problems in the Office of Human Resources*
- Advisory Memorandum: *Memorandum of Understanding Regarding the School Bus Safety Camera Program*
- Preliminary Inquiry Memorandum: *SBIR and STTR Matching Grant Program*
- Preliminary Inquiry Memorandum: *Publicly Funded Political Campaigns for Montgomery County Candidates*

These reports are also publicly available but are not summarized in this report since those summaries can be better incorporated in the Annual Report for FY 2020.

The Office of the Inspector General also routinely responds to complaints and conducts proactive inquiries that do not result in formal reports. During FY 2019, our office received 86 new complaints. We closed 81 complaints including matters carried over from the prior year. Although most of these efforts did not result in OIG reports, each had an outcome, some of which are significant in terms of improving County Government and its services to the taxpayer.

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Synopses of selected preliminary inquiries and referrals concluded during the second half of FY 2019 which did not result in formal reports are discussed in the body of this report. Preliminary inquiries and referrals that concluded during the first half of FY 2019 are discussed in the *Inspector General's Mid-Year Report of Activity for Fiscal Year 2019*.

In January of this year I advised the County Council of my desire to retire. I have been privileged to serve as Inspector General for Montgomery County, Maryland, for more than 8 years. I am grateful to the County Council for the opportunity to have served and to the current and former County Executives as well as the staffs of the County and its independent agencies for their assistance.

On July 1, 2019 the Maryland General Assembly issued an *Official Citation* to me as Montgomery County Inspector General in recognition of my “commitment and dedication to serving the people of Montgomery County” and for my retirement from Inspector General of Montgomery County.

This year I was also recognized as a Patriotic Employer by the Office of the Secretary of Defense for “contributing to National Security and Protecting Liberty and Freedom by Supporting Employee Participation in America’s National Guard and Reserve Force”.

Although I appreciate the personal recognition of these awards, I recognize that they are in large measure a reflection of the high quality of the small team of professionals who have served with me. The success of the Office during the time I have served is largely attributable to their excellence and dedication. Fortunately for the County, under the current circumstances, most of them will continue to serve the incoming Inspector General.

On July 29, 2019, Megan Davey Limarzi was appointed as the new Inspector General. She will take office on September 1, 2019. I look forward to the success of the Office under her leadership.



Edward L. Blansitt III
Inspector General

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Summaries of FY 2019 Issued Reports

***Preliminary Inquiry Memorandum: Proposed Disposition of the former
Silver Spring Library***

OIG PIM 19-001 (July 10, 2018)

Complaint Summary:

The disposition of real property owned by the County that is valued at \$100,000 or more may not become final until (1) the County Executive publishes a declaration that the County has no further need for the property and (2) the County Council approves the Executive's declaration and any disposition of the property at less than fair market value, under County Code § 11B-45.

Code of Montgomery County Regulations § 11B.45.01.06 requires a fiscal analysis to be prepared by the Office of Management and Budget (OMB) and an economic analysis to be prepared by the Department of Finance (FIN). These are to be included in a Reuse Analysis. County departments and agencies must be invited to propose reuse of the property.

The former County Executive proposed to lease the former Silver Spring library site¹ to the Martha B. Gudelsky Child Development Center (MBGCDC) for \$1/year for 99 years. The former County Executive issued Executive Order No. 060-18, in which he declared the property was no longer needed for County use. He sent a memorandum dated March 21, 2018 to the Council regarding material terms for the proposed disposition.

We received a request to review the proposed disposition of the Silver Spring library site, as there may have been other County uses for the property.

Outcome:

We requested the Reuse Analysis for this property and found that it did not include the required fiscal analysis or economic analysis. We noted that the Executive Branch received expressions of interest in public uses of the property from the Department of Libraries, the Planning Board, and the Department of Recreation. The Council was not informed of these in the March 21 Memorandum.

In his response to our memorandum, the former CAO stated that although separate and specific fiscal and economic analyses were not produced, FIN and OMB were involved in the reuse analysis. He stated that going forward, he would ensure that all fiscal and economic analyses are included in a more formal and well documented manner.

The former CAO stated that there is no statutory obligation to submit reuse analysis information as part of the material terms. We observed that the lack of a statutory obligation to provide the reuse analysis to the Council results in the Council considering a proposed sale or lease of County property without being informed of possible County reuses.

¹ The property is at 8901 and 8907 Colesville Road in Silver Spring.

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The Council on July 30, 2019 addressed this observation by unanimously enacting Bill 13-19, which modifies the procedures for the disposition of County property and requires the County Executive to submit a reuse analysis to the Council. The Council approved the Declaration of No Further Need for the former library property on July 9, 2019, allowing the lease to the MBGCDC as described above.

Advisory Memorandum: Montgomery County Employee Retirement Plans – Erroneous Receipt of Pension Benefits by a Participant in the County Retirement System

OIG Report 19-001 (July 19, 2018)

Background:

The OIG received a complaint that an individual employed by an agency that participates in the Montgomery County Employee's Retirement System (ERS) had erroneously collected significant pension payments while being employed full-time with the agency, in violation of County laws and policies. The ERS is a defined benefit retirement plan under which employees earn pension benefits.

It was also alleged that upon discovery of the mistake, the individual was not required to refund the payments, but rather a claim was filed under the County's self-insurance program for the County to recover the monies or payments.

Key Points in the OIG Report:

Through our inquiry, we verified that the individual was employed by the participating agency, which participated in the ERS, and that the participating agency was not aware that the employee had retired for purposes of the County's retirement plan. Under the ERS, employees are not permitted to receive both pension benefit payments and full-time salaries as employees of agencies participating in the ERS system.

With respect to not requiring the individual to refund the payments, we reviewed the evidence and found no problem with the filing of the claim, and in effect waiving the repayment or refund by the individual. It is permitted under applicable law and policy and was reviewed by the appropriate offices within the County. While the actions of management concerning the waiver were permissible, the County's administration of the retirement system was lacking insofar as possessing adequate internal controls to guard against abuse or misuse of the system at the time the issue was discovered. Specifically, while a policy existed to some extent, and that policy allowed for the exercise of discretion, management failed to adhere to that policy, particularly with respect to maintaining documentation of certain actions. Further, that policy failed to clearly state the authority of the Chief Administrative Officer (CAO) concerning retirement issues that may arise.

When the individual retired, the County's Office of Human Resources (OHR) administered the ERS plan and processed the retirement paperwork. Retirement seminars conducted by OHR at that time did not indicate it was impermissible to receive retirement benefits while employed by a participating agency. At that time, OHR did not have a mechanism in place to keep track of retired employees working at a participating agency. Since July 2012, the oversight and

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administration of the ERS plan has been consolidated under the Montgomery County Employee Retirement Plans (MCERP).

A County MCERP employee inadvertently learned that the individual working at the participating agency was receiving pension benefits at the same time. The fact that the individual was able to retire unbeknownst to the participating agency and draw pension benefits while working full time indicated a lack of adequate internal controls to guard against misuse of the MCERP system.

The County conducted an internal investigation and decided not to require the individual to repay the pension. The County filed for monetary recovery through its self-insurance program. According to the County's laws and policies, it is permissible to waive repayment of the pension collected and file a claim to recover the monies.

The policy allowed for discretion regarding the repayment of erroneous benefits. However, management failed to fully adhere to the policy, specifically regarding the maintenance of documentation of certain actions. There was no documentation from the CAO approving the waiver, nor a written request by the individual for a waiver. The policy also did not clearly state the CAO's authority concerning retirement issues.

We recommended that:

Related to MCERP:

- The County establish and disseminate written policy guidelines clearly stating applicable review processes to address administrative retirement errors to employees and retirement participants;
- The policy guidelines delineate the rights and prerequisite requirements of retirees and plan participants with respect to administrative errors resulting in over/under benefit payments, caused by the County or otherwise; and
- The policy guidelines clearly articulate the discretionary authority of the CAO, including the authority to grant or deny waivers resulting in over/under benefit payments, caused by the County or otherwise.

Other:

- All decisions by the CAO with respect to the granting or denial of waivers under the County's retirement system be in writing;
- Any request for a waiver under the retirement system by a retiree or participant be in writing;
- The County require that a dated form acknowledging the intended retirement date of the employee and bearing the signature of an authorized supervisor or retirement plan administrator from the retiring employee's agency be submitted as part of that employee's retirement package prior to the application being processed by MCERP;
- The County establish a record keeping system for retention and maintenance of retirement documentation including CAO decisions and retiree or participant requests; and

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- The County take necessary steps to institute policy or system change to allow retirees or participants to return to work full time and draw retirement benefits as long as they do not participate in the defined benefit plan from which they are drawing benefits.

Key Points in the CAO Response:

The CAO agreed with our recommendations with the exception of allowing retirees or participants to return to work full time and draw retirement benefits. The CAO stated that this recommendation has been highly debated by public pension funds for many years, and the conclusion reached by most plans is that paying a retiree their benefit requires the employer (the County or participating agency) to pay the benefit from taxpayer dollars. If the retiree were rehired, the pension industry view is that paying the retiree's annuity from tax dollars and paying the salary from tax dollars results in double-dipping and can have the effect of eroding public trust in government. If the retiree had retired from another jurisdiction (such as another county government) this does not result in double-dipping since two different jurisdictions are paying.

Report: A Review of Management Control Deficiencies Contributing to the Misappropriation of Montgomery County Economic Development Funds

OIG Report 19-002 (November 19, 2018)

Background:

The Office of the Inspector General undertook an investigation of the former Montgomery County Department of Economic Development (DED) after receiving evidence that DED's former Chief Operating Officer (COO) had misappropriated County funds. The individual we refer to as the DED COO served in more than one capacity in DED from 1997 until its dissolution, and later served in a position conducting activities related to the County's Business Innovation Network until June 2017, when the individual's County employment was terminated. The Montgomery County government abolished the Department of Economic Development by the start of FY 2016, prior to discovery of the DED COO's actions. The separate criminal investigation of this matter and any related charges are not addressed in our report.

The objective of our review was to comprehensively identify systemic problems and related financial and management control deficiencies over the multi-year period, and recommend effective remedies.

Key Points in the OIG Report:

Evidence we reviewed indicated that in the fall of 2008, the County Executive pursued two BioScience initiatives to stimulate economic growth in Montgomery County.

- In October 2008, the County Executive secured a \$2 million pledge from the Governor of Chungcheongbuk-do Province, Republic of Korea, to be used for the construction of the East County Center for Science and Technology.
- In a second initiative, the County Executive formed a BioSciences Task Force "to help develop a strategy that will enable Montgomery County to more effectively leverage its

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rich asset base and become a global hub for life science research, development and technology commercialization."

The County Executive assigned the development and implementation of the two BioScience initiatives to the DED. We found that former DED Directors, in implementing the initiatives, used a 2006 agreement with a public entity to escape oversight by County government and create a standing reserve fund for use by the DED Director. The fund's availability increased the risk of improper financial transactions.

We also found that essential segregation of duties was absent within DED, and top-level DED management oversight was extremely weak. Over an eleven year period, the DED COO took advantage of control weaknesses to divert at least \$7.2 million from the County's Incubator Program without apparent detection or impact on program operations.

In the initiative to implement the BioSciences Task Force's recommendations, DED management used public entities to fund the development and operations of a BioHealth intermediary without executing a formal Memorandum of Understanding (MOU) or Contract that set forth the terms, conditions, and deliverables expected of the BioHealth intermediary's activities. That BioHealth intermediary received \$2.8 million in County funding from July 2012 through July 2016, when no contract was in place.

We made three sets of recommendations to address the findings of the investigation, in the following areas:

- Management should strengthen controls over financial transactions and payments, consistent with and complementary to recommendations contained in reports issued by auditors engaged by the County;
- Management should ensure that it divides or segregates key duties and responsibilities among different people; and
- Management should ensure that there is an annual comparison of budgets to actual expenditures which includes an explanation of how any variance relates to actual program accomplishments.

Key Points in the County Chief Administrative Officer's Response:

County management provided us with a summary of the corrective actions it had taken or initiated as of October 2018 to strengthen controls and processes in response to the issues that came to light surrounding actions of the former DED COO. Among all the actions management reported, we highlight:

- The County's Office of Internal Audit conducted an internal process and control review of the County's Procure to Pay function;
- The County's Department of Finance (Finance) published two policies (the first a revision to an existing policy):
 - August 2, 2017 *Accounts Payable Policies: Financial Governing Principles and Standards*, that, among other changes, strengthened segregation of duties and required sufficient documentation to support payments for exempt transactions,

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- April 1, 2018, *Accounts Payable Section Policies: Authorized Payment* (issued October 2017);
- Finance was to establish a Compliance Unit by January 1, 2019;
- Finance, the Office of the County Attorney, and the County's Office of Procurement worked cooperatively to strengthen controls related to public entity procurements, and revisions to the exempt commodity/payment code listing and basis for use; and
- the County issued Interim Administrative Procedure (AP) 2-4, *Agreements between Montgomery County Government and Other Organizations* on September 11, 2018 to tighten controls related to the standard review and clearance process for all contractual relationships not subject to Chapter 11B of the Montgomery County Code (Contracts and Procurement) and implementing regulations.

Outcomes:

In November 2018, the DED COO admitted to diverting county funds to a shell company he created in 2010 and pleaded guilty to federal charges of wire fraud and making false statements on a tax return, and to state charges of a theft scheme and misconduct in office.

On February 22, 2019, the DED COO was sentenced by the U.S. District Court in Greenbelt, Maryland to four years in prison and three years of probation. On March 7, 2019, the Montgomery County Circuit Court sentenced the DED COO to serve a total of 15 years in prison, and to pay the county back, even though prosecutors have said the money appears to be gone and that the County is unlikely to ever be paid back fully.

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Preliminary Inquiry Memorandum: Duplicative Expenditures at County Fire Stations

OIG PIM 19-002 (December 21, 2018)

Complaint Summary:

An anonymous complainant contacted the OIG to report wasteful spending at County fire stations. The complainant indicated that over the past year, the County had completed capital projects at local fire stations which were rejected by the receiving local volunteer fire and rescue department (LFRD) due to the color of the materials ordered. In both cases, the complainant believed that the County intended to spend money to reorder the materials in the color preferred by the applicable LFRD. The complainant provided two examples:

- 1) Fire Station 28 - Gaithersburg-Washington Grove Volunteer Fire Department recently received two new, front overhead doors which were red in color, which the complainant believed were to be replaced because the LFRD wanted them to be white instead.
- 2) Fire Station 23 - Rockville Volunteer Fire Department recently had new, gray custom roofing material delivered for a planned roof replacement. The complainant believed that the County intended to spend additional money to re-order the roofing materials because the LFRD wanted the new roof to be red.

Outcome:

The OIG conducted this inquiry to determine whether the information provided by the complainant was accurate and if so, what possible controls could be implemented to prevent such additional expenses in the future.

For each of the fire stations referenced by the complainant, the station is owned by the LFRD but maintained by the County government. The County has entered into a “Right of Entry Agreement” with the LFRDs related to the County’s use of property owned or maintained by a LFRD for the delivery of Fire and Rescue Services. Both of the Right of Entry Agreements reviewed by the OIG describe the circumstances under which the County and its contractors may access the property to perform construction, maintenance, or repair.

We confirmed the information provided by the complainant and learned that the County would incur over \$48,000 in duplicative expenses related to these two instances in which improvements to a LFRD-owned firehouse were rejected by the building owner (LFRD) based on the color of the materials procured by the County.

The Right of Entry Agreements between the County and the LFRD owners appear to require that the County obtain prior approval for “certain construction, maintenance, or repair” of LFRD-owned property. Based on the information received from both Montgomery County Fire and Rescue Service (MCFRS) and Department of General Services (DGS), it does not appear that either LFRD owner was asked to provide formal approval of the ordering documentation for either project.

While the Right of Entry Agreements do not require that approval be in writing, we suggested that DGS and MCFRS consider instituting a formal process, wherein LFRDs are asked to review and provide written approval of purchase orders and any associated project renderings or material.

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Report: Montgomery County Public Schools Workers' Compensation Program

OIG Report 19-003 (April 5, 2019)

Background:

Montgomery County Public Schools (MCPS) employs over 23,000 people working at over 220 locations throughout the County. Each year thousands of employee injuries are reported, resulting in millions of dollars of Workers' Compensation costs to the taxpayers of Montgomery County. The OIG sought to assist MCPS in assessing its Workers' Compensation program to identify opportunities for improvements.

Key Points in the OIG Report:

Although individual case compliance was outside the scope of this audit, MCPS appeared to follow internal policies, procedures, and applicable laws and regulations.

We found opportunities for MCPS to consolidate and exploit existing data potentially leading to reduced costs and improved services. We recommended that MCPS employ data analytics for use in incident prevention efforts and as a managerial performance measurement tool. MCPS should continue to work with the Self-Insurance Fund and third-party administrator staff on the accuracy of reporting and documenting events to improve the available data for analysis. Other providers of Workers' Compensation coverage should be explored to establish comparison metrics for the services currently provided to MCPS.

The ability to collect and analyze data, develop metrics, and assign responsibilities to improve outcomes could be impacted due to incident reports being routed through different MCPS offices. We recommended continued development of a consolidated incident and information system and suggested that an Incident Review Committee operating within the MCPS Division of Maintenance be expanded system wide. We also recommended that MCPS review and eliminate redundant documentation.

We also noted that MCPS does not have a return-to-work or light-duty program, an industry best practice. We recommended that MCPS consider implementing a return-to-work or light-duty program.

Key Points in the MCPS Chief Operating Officer's Response:

The MCPS Chief Operating Officer (MCPS COO) wrote that the OIG report pointed to several areas of consideration for the future. The MCPS COO wrote that MCPS appreciated the OIG's emphasis on developing a centralized clearinghouse and review process for workers' compensation claims and expressed interest in using the MCPS Division of Maintenance Incident Review Committee as a foundation on which to build a broader incident review process. MCPS also expressed a willingness to further explore the concept of a return-to-work or light-duty program.

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Report: Telework Program of the Montgomery County Public Schools

OIG Report 19-004 (May 22, 2019)

Background:

Montgomery County Public Schools (MCPS) had 254 employees approved for telework in 2018. The telework program, implemented in 2006, includes a small number of consulting teachers but does not primarily include the academic workforce. The OIG conducted this review to assist MCPS in assessing its current telework program.

Key Points in the OIG Report:

We identified relevant significant controls over telework by researching recommended practices in the Federal Government, the State of Maryland, Montgomery County, and nearby local governments. We also reviewed articles from management consultants and researched telework in other educational institutions. From this research, we identified 10 key controls:

- 1) Supervisors set objectives, deadlines, and reporting requirements
- 2) Teleworkers' performance measured same as that of other workers
- 3) Written policies
- 4) Training required for employees & managers
- 5) Remote work site criteria in writing and self-certification required
- 6) Mix of telework and office days to meet office needs
- 7) Written agreements
- 8) Data on telework hours collected
- 9) Technology controls in place
- 10) Telework approvals based on clear written standards

We concluded that MCPS has all of these controls but needed improvement in two of them: technology controls and clear written standards for telework approvals.

We interviewed teleworkers and their supervisors. The teleworkers we interviewed said that teleworking enabled them to be more productive, because of fewer interruptions; a quieter workspace making it easier to hear and focus; and a more flexible, less hectic environment. The supervisors we interviewed found telework to be beneficial to employee productivity and were comfortable managing teleworkers.

We made the following recommendations:

- MCPS should explore the possibility of expanding its telework program to capture benefits such as reduced real estate costs and the ability to continue operations in severe weather, subject to labor agreements;

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- In its training for supervisors of teleworkers, MCPS should include guidance on monitoring teleworkers and measuring their long-term performance, including establishing objectives, setting deadlines, and requiring status reports;
- MCPS should update its written policies so that they a) prohibit copying certain data onto employees' personally owned computers or other personal devices and b) require employees to inform MCPS if equipment with MCPS data is lost; and
- MCPS management should communicate in writing to decision-makers and employees its criteria for approving telework and determining the number of days that an employee may telework, and it should monitor the decisions system-wide to ensure that the decisions are equitable.

Key Points in the MCPS Chief Operating Officer's Response:

The MCPS Chief Operating Officer (MCPS COO) stated that MCPS appreciated the potential benefits of teleworking noted in our report and was encouraged by the responses from employees who indicated that teleworking enables them to be more productive. The MCPS COO wrote that MCPS is committed to ongoing and continuous improvement and will work to enhance its controls going forward, utilizing practices highlighted in the report. The MCPS COO noted that MCPS is particularly interested in opportunities to strengthen training of employees and supervisors, as well as enhancing technology controls focusing on data security.

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Summaries of Unpublished Preliminary Inquiries

Summaries of unpublished preliminary inquiries closed during the second half of FY 2019 are presented here. See Appendix A, Inspector General's Mid-Year Report of Activity for Fiscal Year 2019, for summaries of unpublished preliminary inquiries concluded during the first half of the FY 2019 reporting period.

It is OIG policy to respond to complainants with the results or conclusions on each matter. In each of the following summaries, we have done so, unless the complaint was anonymous.

Preliminary Inquiry: Contractor Badges

OIG-18-073

Complaint Summary:

Staff from the Office of Legislative Oversight (OLO) visited the OIG to report that during a recent review of the number of the contracted employees within the County, OLO staff learned that the Police Security Services (MCPD Security Services) Division lacked control over employee contractor badges. OLO staff stated that MCPD Security Services often failed to collect or deactivate badges for contractors who are no longer working for the County. OLO requested OIG assistance in looking into the matter.

Outcome:

The OIG initially opened a preliminary inquiry related to the complaint. Shortly after the release of the OLO report entitled *Montgomery County Government Contracting Analysis: Wages, Staffing & Service Contract Trends*, the Office of Internal Audit provided the OIG documentation indicating that it had notified MCPD that the Office of Internal Audit was going to conduct a review of the MCPD Security Services Access ID Card Program. This Internal Audit review was contracted in response to the same OLO report whose underlying work had caused OLO staff to visit the OIG.

In order to avoid a duplication of effort, the OIG decided to further suspend work during the Internal Audit review. The Internal Audit report entitled, *Program Assessment of the Access ID Card Program*, contains 10 findings related to the information presented to the OIG by OLO staff. The findings included: no formalized ID Card policies and procedures in the Security Services Division, no central processing for ID Card related requests and no formalized process to validate accuracy of active Access ID cardholders. In addition, the report recommended improvements needed to ensure timely access changes for contractors and non-employee personnel and changes for record retention.

Based upon our review of the report, we determined that no further work concerning the matter was warranted at this time. We may follow-up at a later date to determine whether MCPD has implemented Internal Audit's recommendations.

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Preliminary Inquiry: Fraudulent Temporary Assistance Payments

OIG-18-079

Complaint Summary:

The OIG received an anonymous complaint on behalf of a County employee alleging that a group of workers at the Georgia Avenue office of the Department of Health and Human Services (DHHS) issued fraudulent temporary assistance payments based on false identities to individuals who were not eligible for the benefits. These checks were generated and printed locally at the DHHS office. The County employee feared retaliation if their identity was known. The complainant stated there was an earlier investigation at the Georgia Avenue office into this matter. However, nothing was found due to the workers covering their tracks. The complainant also stated that “money is missing.”

This complaint was like two previous OIG complaints which presented similar allegations regarding other DHHS benefit programs. Those complaints were referred to both the US Department of Agriculture OIG (OIG-16-066) and the Maryland Department of Human Services OIG (OIG-16-039). Neither agency reported substantiating the complaints in response to our referral.

Outcome:

The OIG initiated a preliminary inquiry to learn about the benefits process and what controls may be in place to prevent employees from issuing fraudulent benefits. During our preliminary inquiry, we learned that DHHS had also received other similar complaints. The OIG subsequently contacted the DHHS Chief Operating Officer (COO) regarding the matter. The OIG and DHHS agreed that the best course of action would be for the DHHS Compliance Team to map the DHHS benefit process and to evaluate whether there were internal controls in place that would prevent the conduct alleged in the complaints.

The DHHS Compliance Team found that there were controls embedded into the system to prevent fraudulent benefits, including:

1. The same DHHS employee cannot both initially enter and finalize a case,
2. Social security numbers are verified, which prevents fictitious persons from being named as benefits payees,
3. Social security alerts are handled by back office staff (not the caseworker), and
4. A specific percentage of cases and associated documentation is reviewed by a supervisor.

At the same time, DHHS identified a few gaps within the system which the OIG will not discuss in this report, as we believe this increases the risk of program fraud. Where possible, DHHS indicated that it was taking appropriate steps to mitigate risk.

In summary, DHHS stated that the conduct outlined in the allegations was possible. However, there was not enough detail for the specific complaints to be substantiated by DHHS. DHHS

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explained that it routinely received and investigated security alerts generated by the internal controls within the system and involved law enforcement where appropriate.

Preliminary Inquiry: Homeless Services

OIG-19-043

Complaint Summary:

The OIG received an anonymous complaint regarding the Department of Health and Human Services (DHHS), Homeless Prevention Unit. The complainant stated that a recent reorganization and a lack of communication regarding the process had significantly lowered employee morale and caused some specific staff members to be underutilized.

Outcome:

OIG staff discussed the recent reorganization at length with the DHHS Acting Director, who indicated that the new Division Chief for Special Needs Housing had many meetings with staff to obtain their input and buy-in for the organizational change. The DHHS Acting Director believed that the Division Chief for Special Needs Housing had a strong background in the subject matter and had properly assessed and realigned the services provided by the unit to make homelessness rare, brief and one time.

The DHHS Acting Director stated that Division Chief for Special Needs Housing had made significant efforts to educate staff on the reorganization efforts (what they were doing and why) and had also worked with the union.

The DHHS Acting Director also stated that now that the reorganization had occurred it would not be a bad thing to check in with the staff to see how it was all going. The DHHS Acting Director agreed to take steps to do so.

Preliminary Inquiry: Council Not Fully Briefed

OIG-19-046

Complaint Summary:

The submission of Montgomery County's 2018 Financial Assurance Plan (FAP) to the Maryland Department of the Environment fulfills requirements specified in Section 4-202.1 of the Environment Article, Maryland Code. The 2018 FAP documents actions implemented by the County to comply with its National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System (MS4) Permit, document annual and projected 5 year costs to meet the impervious surface restoration requirement, and demonstrate the County's ability to pay for these activities through the Water Quality Protection Charge (WQPC).

The OIG was included on an email to several Council members expressing a number of concerns regarding the Council's consideration of the 2018 FAP.

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Outcome:

The OIG initiated a preliminary inquiry to review the information provided by the complainant. The OIG reviewed the written testimony provided by the complainant and the other parties identified by the complainant, viewed the public hearing for the 2018 FAP held before the full Council on January 29, 2019, and reviewed the applicable section of the Maryland Code. Many of the concerns expressed were not topics for the OIG, or were determined to be unfounded.

However, during our review the OIG learned that a court ordered the County to reconsider its previous denial of a witnesses' challenge to the County's computation of his WQPC. The OIG believes that a successful challenge could impact multiple properties in the County, resulting in an unknown change to the amount of WQPC excise tax collected. This could impact the information and projections the County states in its 2018 FAP.

The Inspector General reported this observation in an e-mail message to the Executive, the County Council, and the assigned Council staff member prior to the Council vote to approve the 2018 FAP as submitted by the Executive.

Preliminary Inquiry: Improper Contract Award

OIG-19-047

Complaint Summary:

The OIG received a letter requesting a review of Contract #1064192, Montgomery County Youth Media Services. The complainant also provided a copy of the associated Request for Proposals (RFP), which states Montgomery County's Public Education and Government (PEG) television station "entities and members are not eligible to submit a proposal in response to this solicitation."

The complainant alleged that one of the two task orders was awarded to a specific company whose executive director has also served as the Vice President of a PEG member organization. The complainant indicated that the CEO of that PEG member organization served as a member of the selection review committee for the task orders. Additionally, the complainant stated that a board member for the winning vendor may also be employed by the same PEG member organization whose CEO served as a member of the selection review committee.

The OIG opened a preliminary inquiry regarding the matter. Because the OIG had information indicating that the Office of Procurement (PRO) received the same complaint several weeks prior to the OIG, OIG staff first contacted PRO to determine whether it had investigated the matter. In response to our inquiry, the PRO Acting Director scheduled a meeting with the using department in order to begin investigating the complaint. OIG staff agreed to place the matter on hold for a few weeks so the PRO could respond to the complainant and meet with the using department.

Outcome:

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Following the PRO inquiry, the OIG received an email from the PRO Acting Director. Attached was a copy of the PRO response sent to the complainant. The response stated:

The Office of Procurement conducted a review of the contract including the task order process and awards, as well as spoke with the Department of Technology Services (DTS) staff with regards to the process it conducted.

Based on our review, the task order review process was performed consistent with the contract and this office did not find a contract violation regarding award of the task orders. However, as an added measure of due diligence, this office requested an opinion from the Office of the County Attorney (OCA), with a special focus on the organizational relationships and funding exchange, if any.

After its review, OCA also did not find any violation and its opinion has been detailed in the attached.

We also received a copy of a memorandum from OCA regarding its review of the complaint which found no procurement regulations or policies were violated. The OCA opinion indicated that, even if all the facts outlined in the allegation were true, OCA did not believe a violation would have occurred. OCA also noted that some aspects of the allegation were incorrect likely due to the fact that the website of the named vendor awarded one of the task orders was not up to date. Additionally, although the identified PEG member organization and the winning vendor had partnered in the past, OCA found no business relationship between the two companies related to the task orders.

Preliminary Inquiry: Loitering County Employee

OIG-19-049

Complaint Summary:

An anonymous complainant reported that a female in an identified county vehicle had been seen on numerous occasions sitting with the engine running for hours on end. The complainant stated that this occurred several times per week and had been going on for months. The complainant indicated that he had seen the same truck parked at Little Bennett Park, the Hard Cider Trail Parking Area, and the Harris Teeter Parking lot in Clarksburg Village. The complainant requested an investigation of “this waste of tax payer resources”.

Outcome:

The OIG initiated a limited preliminary inquiry to determine which County department the vehicle belonged to and whether the work of that department might have warranted an employee sitting in a vehicle. OIG staff determined that the vehicle was assigned to the Department of Permitting Services’ Land Development Section.

Due to the large amount of development in the Clarksburg area, we determined that it would be reasonable for a County employee from that section of DPS to be in the Clarksburg vicinity on a repetitive basis. Although multiple attempts were made to drive through the areas identified by the complainant to see the truck in question, it was not seen by the OIG or a volunteer who resides in the area.

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Preliminary Inquiry: DOCR Correctional Officer Arrest

OIG-19-052

Complaint Summary:

The OIG received a complaint reporting that a warden's recent handling of Use of Force incidents has caused some Montgomery County Department of Correction and Rehabilitation (DOCR) employees to issue a "letter of no confidence" against a warden and other DOCR staff.

Specifically, the complaint stated that an individual was recently arrested for assault following a use of force incident. The complainant asserted that a video would show that the inmate was the aggressor, and the correctional officer used the appropriate amount of force, in accordance with the training provided by DOCR. The complaint further alleged that the warden personally instructed staff to encourage the inmate to file charges against the individual following the incident. The complaint alleged that the warden elevated the matter to the Montgomery County State's Attorney's Office (SAO), sought indictment, and arrested the individual in a way intended to humiliate him.

Outcome:

The OIG initiated a preliminary inquiry. An interview of the DOCR staff member allegedly directed to encourage the inmate to file charges did not support the allegation.

The OIG reviewed a surveillance video of the use of force incident. We concluded that the video demonstrated a reasonable basis for DOCR to refer the matter to the SAO. We also verified that the decision by the SAO to refer the case to a grand jury to seek indictment and subsequently arrest the employee were normal procedures when County employees are accused with crimes.

The OIG contacted the complainant and explained that this case would be closed, as the OIG found no evidence of improper action by the warden or DOCR.

Preliminary Inquiry: Living Wage Violation

OIG-19-055

Complaint Summary:

The OIG received an anonymous complaint alleging that Department of Liquor Control (DLC) was hiring employees at a rate less than that of the County Living Wage. The complainant provided a copy of County IRC36445, a job announcement for a DLC County Government Aide at a rate of pay of \$12.25, which was less than the living wage required by the County Wage Requirements Law (County Code Chapter 11B-33A).

Outcome:

The OIG initiated a preliminary inquiry to determine whether the Living Wage Requirements apply to County employees. We learned that Executive Order 91-03, effective July 1, 2003 states

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“County employees in full-time and part-time merit system positions (excluding temporary employees)” are to be paid at least the required wage under the Living Wage Law.

Based on our review, the County must pay most employees at the Living Wage rate. However, the job announcement provided by the complainant appeared to be exempt from this requirement, as it stated that it was for a “part time temporary seasonal” position.

Preliminary Inquiry: Disparate Treatment of Correctional Officers

OIG-19-058, OIG-19-059

Complaint Summary:

The OIG received an anonymous two-part complaint about the Montgomery County Department of Correction and Rehabilitation (DOCR).

- First, it was alleged that DOCR attempted to sabotage a Merit System Protection Board (MSPB) case against an employee accused of wrongdoing, in order to allow that employee to retire prior to administrative action. According to the complaint, an important witness was permitted to take leave and was therefore “unavailable” despite DOCR being directed by the MSPB not to grant leave to witnesses during hearing dates.
- In the second part of the complaint, it was alleged that a potential criminal case against one employee was not referred to the States Attorney’s Office (SAO) but a more recent case involving a separate incident, reportedly for lesser conduct, was referred. A racial disparity in the cases was suggested as a possible reason.

Outcome:

The OIG initiated a preliminary inquiry. Regarding the first part of the complaint, evidence obtained and reviewed by this office indicated that that the witness employee, referenced in the complaint, was on leave during the MSPB hearing. However, that leave was approved prior to the direction from MSPB to disapprove leave requests that conflicted with hearing dates. Additionally, we learned that The Office of County Attorney offered several reasonable alternative options to make the witness available for the MSPB case. However, MSPB elected to proceed without the witness.

Addressing the second part of the complaint, our office confirmed that DOCR referred both cases referenced in the complaint to the SAO for a determination regarding prosecution. The complete files and available evidence were reviewed by the SAO, who reached an independent prosecutorial decision in both cases.

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Preliminary Inquiry: Contaminated Apartment Site

OIG-19-066

Complaint Summary:

A complainant alleged that an apartment building at was approved by the Planning Commission without the proper process and that it was constructed before the required environmental approvals were made. The complainant stated that the site was contaminated, as it previously housed a dry-cleaning facility.

Outcome:

We reviewed the Montgomery County Planning Board’s development approvals and whether any County Government offices had a role regarding the environmental concerns raised. We discussed the process with staff at two County Government departments: the Department of Environmental Protection and the Department of Permitting Services. We also talked with a planner at the Maryland-National Capital Park & Planning Commission (M-NCPPC), of which the Planning Board is a part. We determined that County Government offices did not have a role in the issue, and that it was an M-NCPPC and Maryland Department of the Environment matter. We wrote the complainant that M-NCPPC has an Office of the Inspector General and the complainant might wish to contact that office directly.

Preliminary Inquiry: Whistleblower Retaliation

OIG-19-067

Complaint Summary:

The OIG received a complaint alleging facts that could be interpreted as retaliation by a County manager against an employee who provided assistance to the OIG. Days after the manager became aware that the employee made contact with the OIG, that employee was served with a “90 Day Notice” memorandum indicating that as a result of a possible workplace medical situation, known to the employee’s managers for a significant period of time, the employee’s department was no longer able to accommodate the employee’s medical work restrictions and intended to initiate action to terminate the employee. The events precipitating the adverse action took place months prior to a notice of adverse action being served on the employee. The timing of serving that notice on the employee, just days after the employee provided information to the OIG, had the appearance of impropriety.

Outcome:

We initiated a preliminary inquiry and contacted relevant County officials to notify them of the allegation and that we intended to send a memo summarizing any findings. However, during our investigation, we learned that the administrative action against the employee was withdrawn and that the manager alleged to have retaliated against the employee was leaving and did leave County employment.

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Preliminary Inquiry: DLC Licensee Complaints

OIG-19-079

Complaint Summary:

The OIG received a complaint alleging that the Department of Liquor Control² (DLC) fails to validate application information, as a small percentage of shareholders included on a specific licensee application were inactive within the organization.

The complainant also referenced a Maryland Office of Legislative Audits performance audit of the Prince George's County Board of License Commissioners.

Outcome:

During a preliminary inquiry, we reviewed email correspondence between the complainant and the DLC Compliance Manager. It appeared that once the DLC Compliance Manager became aware of the inactive shareholders, he emailed the licensee on multiple occasions in an attempt to address the complainant's concerns. Within the emailed correspondence, it also appeared that the licensee agreed to contact its attorney (and stated that it did so) to discuss a potential stock transfer. Based on this information, we concluded there was reason to believe that DLC was taking reasonable steps to address the matter.

We reviewed the Maryland Office of Legislative Audits performance audit of the Prince George's County Board of License Commissioners, which found that Prince George's County had no written policies and procedures for the investigation of complaints about licensees. We initiated a limited preliminary inquiry to ensure that DLC was not in the same situation.

OIG staff obtained copies of the Standard Operation Procedures for DLC Inspections and the Knowledge Based Articles used by the DLC Communication Center, which takes calls from those who wish to report a store or restaurant in violation of the law. While the scope of our preliminary inquiry did not include a thorough evaluation of the policies and procedures themselves, we determined that they existed and were memorialized in writing.

² Effective July 1, 2019, the Department of Liquor Control has changed its name to Alcohol Beverage Services.

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Summaries of Unpublished Referrals to Other Entities

Summaries of unpublished referrals closed during the second half of FY 2019 are presented here. See Appendix A, Inspector General's Mid-Year Report of Activity for Fiscal Year 2019, for summaries of unpublished referrals concluded during the first half of the FY 2019 reporting period.

It is OIG policy to respond to Complainants with the results or conclusions on each matter. In each of the following summaries, we have done so, unless the complaint was anonymous.

Referral: Construction Field Order Abuse

OIG-18-056

Complaint Summary:

In January 2018, a complainant visited the OIG to report that Construction Field Orders were being abused in County construction contracts. The complainant stated that the County encumbers 10% above the cost of construction contracts separately from the contract amount, which can be accessed by the end user (Department of General Services) using a "Field Order." The complainant indicated that field orders are intended to be utilized for unforeseen, unanticipated conditions that arise in the field where use of a change order would detrimentally delay the project.

The complainant stated that Field Orders are not included in contract documents, are funded separately from the contract, have no oversight from the Office of Procurement, and are not subject to the usual checks and balances that change orders are. The complainant stated that increasingly County employees have seen contracts with no change orders, but millions of dollars in Field Orders, a practice which. The complainant explained that this practice circumvents the procurement process, as change orders that are more than \$100,000 go through the Contract Review committee and cost and price analysis. On the other hand, Field Orders are approved by the using department and the details of the invoices cannot be readily seen by the Office of Procurement.

The complainant also believed that contractors who have previously won contracts know about the 10% set aside for possible Field Orders and may be underbidding knowing they can increase the contract amount using Field Orders. This may give contractors who have previously won a County contract an unfair advantage in the bidding process.

Outcome:

In response to the complaint, OIG staff met with the County Internal Audit manager who awarded a task order to conduct an audit concerning the matters outlined in the complaint. To avoid a duplication of effort, the OIG suspended work on that matter pending the outcome of the Internal Audit.

On May 20, 2019, the Office of Internal Audit published a report entitled, *Program Assessment of the Department of General Services' Use of Change Orders and Field Orders in Facility*

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Construction Projects. The report confirmed the complainants' allegation the Field Orders are used with much greater frequency than change orders and detailed related findings including:

1. There were instances in which the information provided in the scope of work on the field order form did not provide sufficient justification to conclude that the field orders adhered to County procurement regulations.
2. Field Orders are not required to be reviewed and approved by either Procurement or OCA. Since the use of Field Orders is prevalent, particularly compared to the practices in other jurisdictions, more guidance regarding the use of Field Orders is warranted.
3. The contract administrator for current construction projects was also signing off on change orders for construction projects. These duties lacked appropriate segregation.
4. County staff expressed concern regarding delays in the processing of change orders, which could impact the schedule and cost of projects.

The OIG concluded that the Internal Audit report adequately explored the allegations brought by the complainant. Based on the Executive response to the report, it appeared that remedial action would be taken.

Referral: MCPS Vendor Using Montgomery County Departments to Promote Image

OIG-19-012

Complaint Summary:

The OIG received a complaint regarding the Montgomery County Public Schools (MCPS) school bus safety camera contract, which resulted in a Final Advisory Memorandum entitled *Memorandum of Understanding Regarding the School Bus Safety Camera Program (between the Montgomery County Public Schools & the Montgomery County Police Department)* issued in FY 2020.

While reviewing records and conducting interviews related to that report, collateral information was obtained regarding the vendor. We learned that the vendor's company website used an image of an MCPD officer in uniform, along with a quote attributed to that officer. Although not an overt endorsement, the use of the image and quote clearly suggested MCPD support of the vendor. Additionally, the officer depicted on the website was incorrectly identified as the "Chief of Police" for Montgomery County. However, the officer shown in the image was of a lower rank.

Outcome:

The OIG referred this issue to the MCPD Internal Affairs Division, which investigated and exonerated the officer shown in the image of any wrongdoing. The vendor also removed the image and accompanying text from its website.

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Referral: Spoof Calls from the Housing Opportunities Commission

OIG-19-053

Complaint Summary:

The OIG received a complaint from an individual located in North Carolina, alleging that she had been receiving calls from a phone number which appeared to belong to the Housing Opportunities Commission (HOC) of Montgomery County for weeks. According to the caller HOC appeared on the caller identification. While the complainant did not answer calls when HOC appeared on her caller ID, she requested that the OIG find out whether the calls were legitimate, as they were coming with great frequency.

Outcome:

OIG informally referred the complaint to HOC. A member of the HOC staff stated that it recognized the phone number as an HOC extension, and the calls could possibly be related to an HOC attempt to update files to a past application for housing assistance wherein the complainant's number was used as a point of contact. The OIG contacted the complainant and recommended that the individual contact HOC directly to determine whether the calls are legitimate.

Referral: Department of Finance

OIG-19-062, OIG 19-064, OIG 19-065

Complaint Summary:

The OIG received three separate complaints concerning the Department of Finance. All three complaints alleged a pattern of discrimination by Department of Finance staff. Additionally, two complaints alleged a County contractor was retaliated against because a Department of Finance official sought employment with the contractor's spouse and was not hired and subsequently, attempts were made to remove the contractor from the "Best Qualified" list when applying for a County position. One of complaints also alleged that the County paid for training and classes for specific Department of Finance employees which were unrelated to their work with the County. These were referred to the Office of the CAO for appropriate investigation and resolution.

Outcome:

In response to the OIG referral, the CAO stated that it had investigated the allegations and complaints and provided the following information:

1. Data from the Office of Human Resources concerning hiring and promotions was examined, and a pattern of discrimination in favor of or against any individual class was not found.
2. The County positions that were applied for by the contractor were examined, and there was no evidence that the identified Department of Finance official used any influence to

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retaliate against the contractor. The official was not involved with the development of the position application, was not a member of the interview panel, and was not a hiring official.

3. The CAO examined training/classes for the Department of Finance staff and found training to be directly related to the employees' work requirements and responsibilities.

Since the CAO office did not find any evidence to support the allegations, the matter was closed with no additional management action.

Referral: Smoking on County Property

OIG-19-069

Complaint Summary:

The OIG received a complaint alleging a Department of General Services (DGS) Equipment Services Coordinator allowed County employees and contractors to smoke on County property. Montgomery County Code Sec. 24-9 prohibits smoking in or on any property that is owned or leased by the County.

The complainant also stated the DGS Equipment Services Coordinator himself smoked in the parking lot both outside his car and inside but with the door open. The complainant indicated that the DGS Equipment Services Coordinator left cigarette butts on the ground near the individual's car.

Outcome:

The OIG sent a memorandum referring this matter to the CAO for appropriate investigation and resolution. We received a response indicating that the DGS Equipment Service Coordinator's supervisor and the DGS Human Resources (HR) Liaison met with the DGS Equipment Service Coordinator regarding the allegations. While the DGS Equipment Services Coordinator denied the allegations, the employee was reminded of the smoking ban on County-Owned or Leased Property and provided a copy of the May 22, 2013 memorandum from the CAO to all County employees outlining the relevant policy.

Referral: Department of Correction and Rehabilitation Hiring Practices

OIG-19-076

Complaint Summary:

The OIG received multiple complaints alleging that individuals who applied for positions at the Department of Correction and Rehabilitation (DOCR) were removed from the selection process once DOCR became aware that the individuals had family members who were current employees of DOCR, even though the applicants were otherwise qualified candidates for the position. The allegations indicated that when DOCR became aware that applicants were related to current employees, they were contacted and told they did not meet basic job requirements. In one instance, the applicant received a conditional job offer and subsequently was allegedly told

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“In the state of Maryland you have to have job experience too.” The OIG did not find any prohibition on related employees working at the same agency, as long as they do not supervise one another.

Outcome:

The matter was referred to the Office of the CAO for appropriate action. It was determined that DOCR does not have a policy or practice to exclude candidates from the selection process based on their having a family member who is a current employee of DOCR.

The CAO found no cases where a candidate was provided a conditional job offer by DOCR and rescinded due to a prior or current relationship with a DOCR employee. The CAO did find one case in which a candidate received a conditional job offer at the DOCR hiring event held on April 27, 2019, and was later found to be “Not Qualified” in meeting minimum job requirements, based on the information entered by the applicant via the County’s on-line application system. The candidate requested a review of their case, and was later found to be “Qualified” based on additional information submitted by the applicant to the Office of Human Resources (OHR).

Based on the review, DOCR and OHR took corrective actions, including the following:

1. In the event of future One Day Hiring Events in which a conditional job offer is made by DOCR, normal OHR functions are not performed prior to the event, and an applicant is later deemed as Not Qualified for meeting minimum job qualifications via the County on-line application process, DOCR will refer the candidate to OHR versus DOCR human resources staff making contact with the applicant.
2. DOCR will ensure all DOCR human resource personnel are informed and up to date on all aspects of the personnel regulations, County rules and policies, and clearly understand and follow the equivalency requirements for all positions.

Unrelated to the referred complaint, during the review it was determined that the current DOCR website contained erroneous information, stating that candidates must be fluent in English, which is not a requirement. Per Maryland regulations, correctional officer candidates must be assessed on their ability to communicate. The inaccurate hiring information has been removed from DOCR’s website.

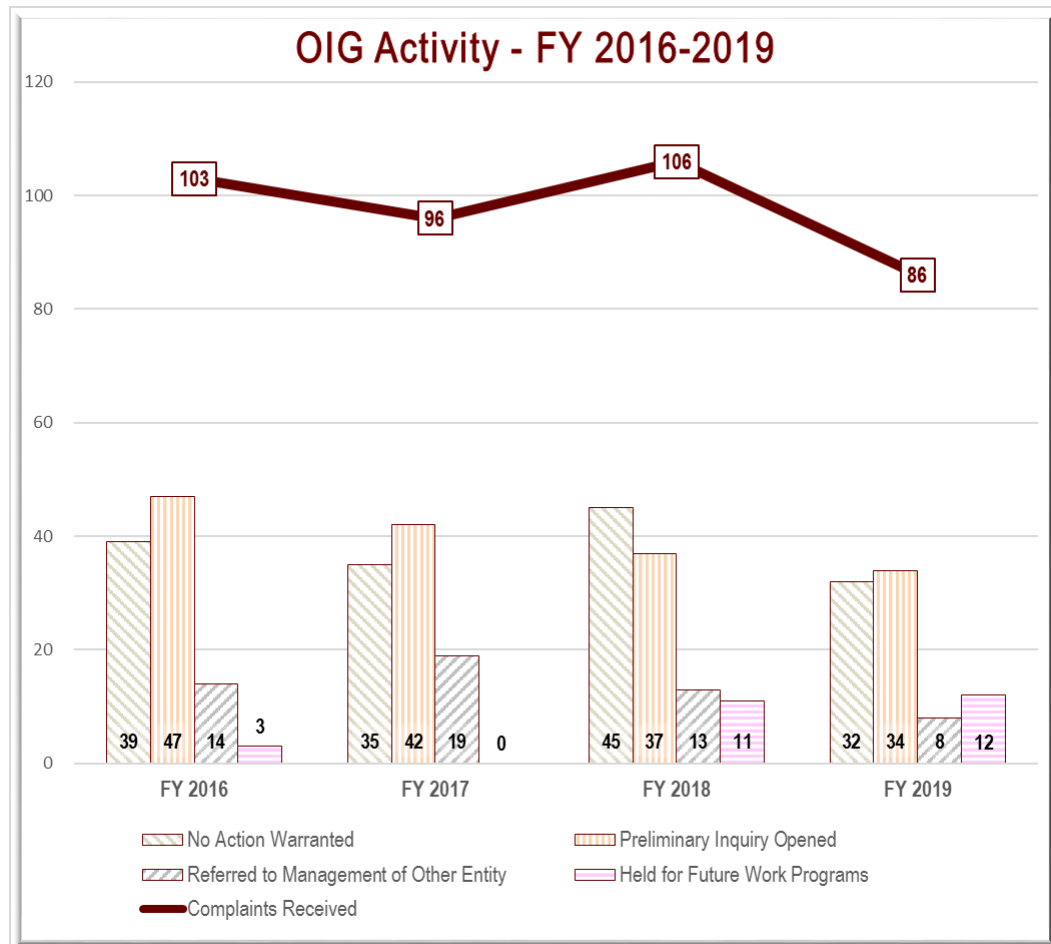
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FY 2019 Organizational Accomplishments

Audit/Investigation/Inspection Activities

During FY 2019 our office received 86 new complaints and closed 80 complaint files, including matters carried over from the prior year. We also publicly issued two Preliminary Inquiry Memorandums and five staff reports and participated in the oversight of two companion reports produced by subject matter experts.

The chart below details OIG Activity from FY 2016 through FY 2019.



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Budget vs Actual Expenditures

OIG Resources - Fiscal Year 2019	Budget	Actual	Unexpended
Personnel Expense:	986,628	803,001	183,627
Operating Expense:	153,962	28,513	125,449
Total Resources	1,140,590	831,514	309,076

Two full time equivalent (FTE) positions were vacant during the majority of FY2019. We expect that it will be possible to fill the positions during FY2020.

Performance Metrics

Performance Metrics	Goal	2019 Actual
Percent of complaints reviewed and action initiated within 5 business days	95%	98%
Percent of initial inquiries (with no reports or memo) completed within 20 business days	80%	82%
Percent of reports completed within 8 months ³	60%	50%

³ Audit/Inspection/Investigative Reports and Preliminary Inquiry Memorandums included in this statistic are considered complete at the time that a discussion draft is sent to management for comment.

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Expansion of Oversight Authority

Recently enacted and approved Maryland legislation, effective October 1, 2019, provides that the County Council may grant the County Inspector General the same authority over two independent County agencies that the Inspector General has over a department of County Government:

- Montgomery College
- Housing Opportunities Commission of Montgomery County (HOC)

We have been supportive of this legislation, as it will improve this office's ability to fulfill its duties under the County Code.

Professional Relationships

The OIG maintains memberships with the Association of Inspectors General (AIG), the Association of Government Accountants (AGA), and the Association of Local Government Auditors (ALGA), which enhance overall performance and broaden our staff's professional perspective.

During FY 2019, our Inspector General served as the First Vice President of the District of Columbia Chapter of AIG. Investigative Analyst Mollie Habermeier also serves on the AIG local Chapter Training Committee.

Peer Review

Standards observed by the OIG require an external Peer Review at least once every three years. Peer Review is designed to assess compliance with applicable standards.

During summer 2019, AIG conducted a peer review, evaluating the work of the OIG performed during FY 2016 – FY 2018. The Peer Review assessed the work of our office for compliance with the AIG *Principles and Standards for Offices of Inspector General*, the United States General Accountability Office (GAO) *Government Auditing Standards*, and the standards set by the Councils of Inspectors General on Integrity and Efficiency (CIGIE).

On July 8, 2019, the Peer Review team issued an opinion stating that the standards of the AIG, GAO, and CIGIE standards are consistent with the standards under which this office operated throughout the review period.

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Implementation of the FY 2018 – FY 2019 Work Plan

During FY 2018, the OIG released our *Work Plan and Projected Budget for Fiscal Years 2018-2021*. As identified in our workplan, our highest priority each fiscal year is to promptly review each complaint that is received and respond to the complainant. Complaints are evaluated to determine whether there are reasonable grounds to suspect waste, inefficiency, or violation of policy or legal requirements.

Our work plan identified eight specific projects which we expected to complete during FY 2018 and FY 2019. Seven of the eight identified projects have been completed. Four of the seven completed identified reviews were completed during FY 2019 and are summarized in the body of this report.

The final item specifically identified in the work plan, a review of Montgomery County Workers' Compensation, was postponed.

Investigative Support to the Ethics Commission

The OIG receives both formal and informal referrals for investigation from the Ethics Commission. The OIG then exercises its independent judgment as to whether it will dedicate resources to the matter being referred.

In FY 2019, the OIG provided investigative assistance for matters referred by the Ethics Commission. None of our work on behalf of the Ethics Commission resulted in a formal report.⁴

Corrective Action Plans

As part of an ongoing goal to strengthen our recommendation resolution process, in FY 2018, we began asking management to provide us with a Corrective Action Plan (CAP) in response to each of our reports containing one or more recommendations. In order to ensure that each CAP addresses our recommendations within reasonable timeframes, we request progress updates until each CAP is fully implemented.

At the beginning of FY 2020, we received a CAP progress update from the Office of Internal Audit for all FY 2019 recommendations. According to that update, all FY 2019 recommendations were either completed or in progress. According to a Cumulative Recommendation Tracking Chart prepared by the Office of Internal Audit, of 150 total OIG recommendations, 32 remain partially implemented (in progress).

When appropriate, our office also engages in follow-up reviews to determine whether our recommendations have been implemented. We did not engage in any follow-up reviews during FY 2019.

⁴ When a complaint to the Ethics Commission is formally referred for investigation pursuant to 19A-10(a)(3) of the ethics law, the OIG is bound by the confidentiality requirements of the law, including the requirement that any report of investigation be confidential.

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Future Directions

Consistent with the County Code, in October 2017, the Inspector General submitted the *Work Plan & Projected Budget for Fiscal Years 2018-2021*, which covers the current four-year term of the Inspector General, to the County Council and the County Executive. Because the projected work plan and budget covers the entire term of the current Inspector General, it would typically be updated routinely to better reflect the shifting priorities within the OIG and the County government. However, in January 2019, Inspector General Blansitt announced his retirement. Therefore, we did not issue a revised workplan during FY 2019.

On July 29, 2019, Megan Davey Limarzi was appointed as the new Inspector General and will take office on September 1, 2019. As the Inspector General, she will have the opportunity to develop an updated work plan covering the remainder of the current term.

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Appendix A:

Inspector General's
Mid-Year Report of Activity
for fiscal year 2019

Contains synopses of selected
preliminary inquiries and referrals for
the period July - December 2018

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Inspector General's Mid-Year Report of Activity

for fiscal year 2019

July – December 2018

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Appendix A: Inspector General's Mid-Year Report of Activity for Fiscal Year 2019



A Message from the Inspector General

Each year, the Office of the Inspector General (OIG) publishes formal reports that are publicly released and detail significant findings and recommendations. During the first half of fiscal year (FY) 2019, this office publicly issued two Preliminary Inquiry Memorandums, and two staff reports and participated in the oversight of two companion reports produced by subject matter experts. We also provided confidential investigative support to the Ethics Commission during the first part of this Fiscal year¹. The following publicly released reports are not summarized in this report but can be found at: <http://www.montgomerycountymd.gov/oig/igproduct.html>

- *Proposed Disposition of the former Silver Spring Library*
- *Duplicative Expenditures at County Fire Stations*
- *Erroneous receipt of Pension Benefits by A Participant in the county retirement System*
- *A Review of Management Control Deficiencies Contributing to the Misappropriation of Montgomery County Economic Development Funds*
 - *Report of Forensic Investigation of Transactions related to The Montgomery County Department of Economic Development*
 - *Report of Forensic Investigation of Montgomery County, Maryland's Financial Relationship with Certain Vendors of the Business Innovation Network.*

The OIG also routinely responds to complaints and conducts proactive inquiries that may not result in formal reports. During the first half of FY 2019 our office received 39 new complaints and closed 38 complaints including matters carried over from the prior year. Although most of those efforts did not result in independent OIG reports, each had an outcome, some of which were significant. Synopses of select preliminary inquiries and referrals which concluded during the first half of FY 2019 are presented in the body of the attached report.

Consistent with our *Work Plan for Fiscal Years 2018-2021*, during the spring of 2019 we will issue our reviews of the Montgomery County Public Schools (MCPS) Workers' Compensation Program and of the MCPS Telework Program. In addition to completing reviews currently in progress, we plan to initiate reviews of the Montgomery County Workers' Compensation Program, the County Department of Technology Services and the County's implementation of key internal control recommendations identified in the reports released earlier this year.

¹When the OIG dedicates resources to a complaint the Ethics Commission has formally referred for investigation pursuant to 19A-10(a)(3) of the ethics law, the OIG is bound by the confidentiality requirements of the law, including the requirement that the report of investigation be confidential.

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Summaries of Preliminary Inquiries

(It is OIG policy to respond to Complainants with the results or conclusions on each matter. In each of the following summaries, we have done so, unless the complaint was anonymous.)

Preliminary Inquiry: MCPS Relocation to Holding Facility

OIG-18-011

Complaint Summary: The OIG received a complaint alleging that Montgomery County Public Schools (MCPS) failed to conduct an appropriate financial analysis to justify the use of an MCPS holding facility during a revitalization/expansion project at Potomac Elementary School.

Specifically, the complaint alleged that in assessing the cost effectiveness of moving the students off-site during the reconstruction efforts, MCPS failed to take into consideration both transportation and facility costs associated with housing the students at the Radnor Holding Center. No additional specific data or information was furnished in support of the conclusion that housing the students off-site was not cost effective other than the assertion that MCPS claimed that those transportation and facility related costs did not need to be included since they were not construction costs.

Outcome: In conducting the review, which included reviewing relevant laws, legal opinions, documentation/correspondence, County Council records, and MCPS School Board proceedings; and interviewing County Council personnel, the OIG was unable to find a sufficient basis to question the accuracy of MCPS's financial data concerning the project and/or the appropriateness of MCPS's decision concerning the housing of the students.

Through its inquiry, the OIG verified that as part of the revitalization/expansion process, MCPS conducted a series of meetings, community and otherwise, during which parents, MCPS staff, members of the Parent Teacher Association, architects and other interested persons participated. In addition to the presentation of the design plans and potential design options for the project under consideration, input was solicited from the participants/attendees with respect to the information presented as well as the housing of students during the construction phase.

MCPS concluded that considering site size, access and age of the students, the security and safety of students, families and staff would be compromised if students were allowed to remain on-site during construction and/or renovation. It was determined that safety and security could best be assured by housing students at the Radnor Holding Center during construction. Further, MCPS found that, from a fiscal standpoint, it was more cost effective to use the holding center. Specifically, MCPS concluded that there would be a cost savings of as much as \$2 to \$3 million from relocating the students off-site during the construction project.

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We learned that the determining factor in MCPS's decision to house students off-site during construction was not based on fiscal or financial considerations but rather on the safety and security considerations that would arise if the students remained on the site during the construction phase. This was the same determining consideration upon which the Board of Education relied when it approved MCPS's proposed plans, inclusive of housing the students off-site, for the revitalization/expansion project.

Based on our limited preliminary inquiry, we found that while cost may have been a factor in the MCPS decision to house the students off-site, the predominant determining factor in that decision was the safety of the students. Accordingly, for those reasons, we concluded that an in-depth financial review was not warranted.

Preliminary Inquiry: Retaliation Against Whistleblower

OIG-18-031

Complaint Summary: A complainant reported that a subcontractor, working in a County office, was removed from the contract at the request of the County allegedly in retaliation for filing a complaint with the County Equal Employment Opportunity and Compliance Division (EEO). Contractors in the County work place are granted the same ability to access the County EEO process as an employee.

Outcome: Extensive investigation by the OIG revealed that the subcontractor was removed after the subcontractor accessed a County computer system in a manner that exceeded the proper authorization and was outside the scope of the contract assignment. As explained by the complainant, the subcontractor's access of these records was intended to demonstrate a vulnerability in the County computer security system to the leadership of the Department of Technology Services (DTS). However, DTS indicated that the subcontractor, who had administrative rights, accessed specific records related to the pending EEO complaint.

No clear evidence of retaliation against the subcontractor was found. The subcontractor was removed from the contract, at the request of the County, for improperly accessing computer systems and databases. Although the subcontractor's information about the vulnerability in the security system was accurate, the subcontractor's decision to explore and demonstrate the vulnerability of a system with which the subcontractor was not actively working appears to have been the proximate cause of the removal request.

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Preliminary Inquiry: Kickbacks from a County Contractor

OIG-18-049

Complaint Summary: The OIG received a complaint alleging that a County manager was accepting gifts from and had an unusually close relationship with a named County contractor. County law prohibits the acceptance of gifts from a person who does business with the employee's agency. The complainant believed that the manager accepted airline tickets for a family member to go on an overseas trip. The complaint identified several individuals the complainant claimed were eyewitnesses or had knowledge of the exchange of tickets.

Outcome: Other than confirming that the employee's family member did take an overseas trip, no substantiation of the remaining facts outlined in the allegation was found. OIG staff interviewed or attempted to interview each of the witnesses identified by the complainant. We were unable to corroborate the information presented by the complaint.

Preliminary Inquiry: Montgomery College Wasteful Spending

OIG-19-004

Complaint Summary: The OIG received a complaint alleging financial wrongdoing by the president of Montgomery College. Specifically, the complainant, a former employee of the college, alleged that since 2016, the College President had been receiving reimbursement for costs associated with her personal vehicle (i.e. insurance, maintenance, fuel, registration, etc.) and the use of a college leased vehicle simultaneously. The complainant believed this to be a violation of the College President's contract and/or college procurement regulations.

Secondly, it was alleged that the College President acquired the services of Smith & Company (a public relations entity) at the college's expense in violation of applicable regulations and policy (Section C4 of Board Policy 63001).

Outcome: As to the allegation concerning the College President's vehicle expenses, we note that the same allegation was included in news articles that preceded the OIG's review of the oversight exercised over the College President's expenses. The OIG issued a May 31, 2017 Final Advisory Memorandum entitled, *Oversight of the Montgomery College President's Expenses*, which highlights our findings and recommendations related to that review. As we had no findings related to this allegation at the time, the report contains no discussion of that particular issue.

Further, the Board of Trustees of Montgomery College engaged an independent audit firm to evaluate "the effectiveness of the President of Montgomery College expense and travel compliance with Maryland state law, College by-laws, regulations, and policies during the two

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fiscal years ended June 30, 2016.” No exceptions related to the allegation regarding the use of the two vehicles are noted in that report.

As the scope of the independent audit would have included the expenses related to the reimbursements for a personal vehicle and the use of a college leased vehicle, the OIG declined to further investigate allegations regarding the vehicle expenses incurred or reimbursed on behalf of the College President at this time.

In response to the second allegation, alleging that College’s contract with Smith & Company violates Section C4 of Board Policy 63001 (Procurement Policy), we reviewed relevant contract documents as well as the referenced policy. We found that the signatory on the contract was the Acting General Counsel for Montgomery College and that the policy specifically states that General Counsel may enter into a special procurement contract for the services of “experts, consultants and investigators...in anticipation of litigation or preparation for a trial or a compliance issue.” According to the documents submitted by the complainant, Smith & Company was retained as “corporate communications consultants.” As the policy gives the General Counsel latitude to hire consultants, we see no indication of a violation related to the policy based upon the facts outlined by the complainant.

Preliminary Inquiry: Tree Montgomery Procurement Violation

OIG-19-008

Complaint Summary: The OIG received a request for an investigation into a County contract related to the Tree Montgomery Program. According to the complainant, the contract was awarded and renewed without required competition. The complainant believed that the County could save money and get better results by putting the contract up for competitive bid.

Outcome: OIG staff obtained and reviewed copies of relevant contract documents for the Tree Montgomery Program contract identified by the complainant. We found that the contract was initially awarded following a Request for Proposals (RFP) for Tree Canopy Planting posted in October 2014. As it appears that the contract was competed under the Local Small Business Reserve Program (LSBRP), we determined the allegation was unfounded.

Appendix A:
Inspector General's Mid-Year Report of Activity for *Fiscal Year 2019*

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Preliminary Inquiry: Investigative Assistance to Ethics Commission

OIG-19-023 & 19-035

Complaint Summary: Per authorities granted in the County Code, the OIG provided confidential investigative support to the Ethics Commission. This investigation resulted in facts and evidence which substantiated the complaint.

Outcome: With the information provided to it, the Commission was able to resolve the matter in accordance with its internal processes.

Preliminary Inquiry: Changes to MCEDC Bylaws

Internally Generated – No Complaint Number Assigned

Complaint Summary: The OIG proactively developed this preliminary inquiry. The Montgomery County Economic Development Corporation (MCEDC) is a public private partnership that the County has designated as its economic development corporation. On May 30, 2018, as then required in its Bylaws, the MCEDC President and Chief Executive Officer (CEO) wrote to the Council of proposed changes to its Bylaws. During our review of the proposed changes to the Bylaws, we identified several issues that were of concern to the OIG.

Outcome: Because we have some experience with non-profit organizations and were in the process of reviewing past issues affecting the former Department of Economic Development, the OIG offered the following comments for consideration by the County Council and the County Executive:

- 1) Signature Authority: The Board proposed the elimination of the Bylaws requirement for two signatures of officers or designated agents on checks for \$5,000 or more. We stated that a two-signature requirement should either remain in the Bylaws or be in the written policies and procedures, as this is a useful internal control for preventing waste, fraud, and abuse.
- 2) Audit Committee: We agreed with the proposal to add the Audit Committee as a Standing Committee of the Board. However, we suggested that someone on the Audit Committee should have professional qualifications that are specified either in the Bylaws or in the written policies and procedures.
- 3) Qualifications: We suggested that professional qualifications for the Treasurer should also be specified in either the Bylaws or in the written policies and procedures. We stated that it may be useful to require that at least one member of the Board have financial management experience.

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The Inspector General and MCEDC management spoke at the Council’s Planning, Housing, and Economic Development (PHED) Committee meeting on July 9, 2018. On September 25, 2018, the MCEDC Board Chair wrote to the Council that MCEDC had reviewed the OIG’s comments and “found them to be reasonable and acceptable.”

The Chair wrote that 1) a provision requiring two signatures under certain circumstances is in MCEDC’s Financial Management Policies, 2) MCEDC added to the Bylaws that Finance and Audit Committee members shall have the ability to read and understand fundamental nonprofit financial statements and have the ability to understand key operational and financial risks and related controls, and 3) MCEDC added to the Bylaws that the Treasurer shall have an accounting background or related financial management experience. The Bylaws, as amended by the Board of Directors on September 10, 2018, contain these changes.

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Summaries of Referrals to Other Entities

(It is OIG policy to respond to Complainants with the results or conclusions on each matter. In each of the following summaries, we have done so, unless the complaint was anonymous.)

Referral: DOT RideOn Nepotism

OIG-18-092

Complaint Summary: The OIG received a complaint that Department of Transportation (DOT) management improperly hires and/or promoted relatives and friends either as paid interns or regular employees within the DOT Transit Services Division (RideOn). Specifically, it was alleged that management inappropriately hired relatives and others noncompetitively either as interns or in other positions. According to the complainant: persons have been hired or promoted who were not qualified, resulting in qualified persons being passed over; persons have been hired or promoted for positions that have not been posted to allow or afford others the opportunities to apply; persons have been hired or promoted at improper salary levels; and persons have been hired and supervised by relatives.

Outcome: The matter was referred to Office of the Chief Administrative Officer (CAO) for management review and appropriate action. In his response, the CAO stated that based on interviews with the complainant and other DOT employees, as well as a review of personnel practices, it was determined that management officials and the personnel in question violated no County policies or requirements.

OIG staff followed up with management to gather details of the review. We were told that it had been found that the purported interns were actually contract employees and had not been hired based on influence and were not supervised by relatives. A review of the relevant personnel related documents for the person purported to be not qualified reflected that the employee had the relevant experience. As to a relative hiring and/or supervising a relative, management determined that the individual in question had recused herself prior to the relative applying for the position and thus was not involved in the relative's hiring. Further, that individual did not supervise the relative once she was hired.

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Referral: DGS Contractor Abuse

OIG-18-095

Complaint Summary: A complainant visited the OIG to report that payment was being unfairly withheld from the Department of General Services (DGS), Division of Fleet Management Services (FLEET) contractor responsible for detailing the RideOn buses. The complainant stated that the Contract Administrator and Contract Monitor consistently set the contracted employees up to fail so that DGS could withhold payment for contracted cleaning services.

Specifically, the contractor received \$48 per bus to return the bus to “showroom clean.” There is a checklist of items that are checked as part of the inspection report and signed off on as satisfactory or not by a crew chief and a FLEET Contract Manager/Supervisor. Per the terms of the contract, if a bus does not pass inspection, the cost of the cleaning of that bus will be deducted from the invoice.

The complainant stated that over a period of months, more and more buses began failing inspection resulting in the contractor operating at a loss. The complainant claimed that in some cases, the contractor had a signed sheet stating that the work is performed satisfactorily for each item yet the contractor was still not paid, as FLEET has stated that a signed sheet with satisfactory marked for each item does not mean that the bus passed.

The complainant believed that the contract administrator and contract monitor instructed the FLEET crew chiefs who perform the inspections not to give the contractor a copy of the paperwork or any feedback at the time of inspection. Instead the contractor was routinely informed that they did not pass after the fact without any opportunity to correct the alleged issues. The complainant believed that FLEET was setting the contractor up to fail no matter how hard they work.

Outcome: The matter was referred the CAO for appropriate investigation and resolution. The CAO responded that that his office reviewed emails and correspondence between the contractor and DGS. Their review indicates that DGS first began expressing concern with the contract work in August 2017 and their communication of the deficiencies continued until April 2018. The CAO found that as a result of repeated performance deficiencies, a cure notice was issued on April 20, 2018 which requested that the contractor provide a corrective action plan. While the contractor responded to the notice, no corrective action plan was provided to DGS. Another notice was sent on May 24, 2018. The CAO notes that, in the end, the contract was not terminated. Rather, at the contractor's request, the contract's renewal options were not exercised, and the contract was allowed to expire on June 30, 2018.

In regards to the payments made under the contract, the CAO states that per the terms of the contract, the contractor agreed to provide enhanced cleaning for at least 30 buses per month at a rate of \$48 per bus. Thus, at a minimum, the contractor could expect to earn \$14,400 per month (\$172,800 total). The CAO found that the payments to the contractor exceeded the minimum.

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The contractor was paid \$183,385 over the course of the contract and only \$4,080 (approximately 2%) was deducted due to non-compliant work.

In summary, the CAO found that DGS staff complied with their responsibilities as contract administrators. The CAO found that on numerous occasions DGS staff attempted to work with the contractor to reduce the frequency of deficiencies and improve contract compliance. Additionally, the CAO found that the Office of Procurement and DGS complied with the County's process to address contract performance deficiencies as set forth in the County's Terms and Conditions contained in the contract.

Based on the CAO's response, the Office of the Inspector General does not intend to engage in any further review regarding this matter.

Referral: MCPS Worker's Compensation Abuse

OIG-18-099

Complaint Summary: A complainant alleged that a Montgomery County Public Schools (MCPS) employee had been out of work and receiving workers' compensation benefits for 3-4 months. However, the employee was seen performing manual labor on his property and appeared to be physically capable of working. The allegation included specific statements made to the complainant by the employee that appeared to be inconsistent with activities the employee was observed performing.

Outcome: Because MCPS employees receive workers' compensation benefits through MCPS' participation in the Montgomery County Self Insurance Fund (MCSIF), this matter was referred to both MCSIF and MCPS. As result of our referral, the individual was placed under surveillance. Investigation of the employee's daily activities revealed nothing incompatible with their workers' compensation status. Additionally, MCSIF and MCPS requested, and obtained, an independent medical exam of the employee. The results of that examination supported further treatment and rehabilitative work hardening². The matter was closed.

² According to the LexisNexis Legal News Room website, as it applies to workers' compensation matters, "Work hardening is an intensive program with defined goals designed to assist the injured employee to return to work performing the tasks of his/her regular job. Work hardening will also teach an employee proper ergonomics and train the employee to work safely and to prevent re-injury." Obtained from <https://www.lexisnexis.com/legalnewsroom/workers-compensation/b/recent-cases-news-trends-developments/posts/work-hardening-bridges-gap-between-unable-amp-able-to-work>, last accessed April 3, 2019.

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Referral: Unprofessional Veterinary Care at MCPD Animal Services

OIG-19-003

Complaint Summary: The OIG received a complaint alleging that a Veterinarian working for the Montgomery County Police Department (MCPD), Animal Services Division was unprofessional, provided substandard care, and roughly handled animals housed at the Animal Services and Adoption Center. The complainant described 3 separate incidents that purportedly occurred in public view on the same night.

Outcome: The matter was referred to the Office of the Chief Administrative Officer (CAO) for appropriate investigation and resolution.

In response to the referral an Assistant CAO wrote, "MCPD investigated this complaint and determined there was no wrongdoing on the part of [the veterinarian]. [The Director of the MCPD Animal Services Division] conducted the interviews and reviewed records associated with each of the three listed complaints. There was no evidence to support any of the allegations. There was, however, evidence of the cats having existing behavioral and/or medical challenges that created some of the situations faced by [the veterinarian]. Additionally, it was determined that the medical care provided to all of the animals was appropriate... As a result, this case has been closed administratively."

Referral: MCFRS Personal Email Use

OIG-19-007

Complaint Summary: The OIG received a complaint alleging that a Montgomery County Fire and Rescue Service (MCFRS) employee was using the County email system to promote his personal business. The complainant stated that the MCFRS employee had periodically sent promotional emails to County employees over the past year and a half, both from his County email and from a private business email account.

Outcome: The matter was referred the Ethics Commission for appropriate review and resolution. In response, the Chief Counsel/Staff Director Ethics Commission (Ethics Commission Director) told the Inspector General that the employee had obtained approval from the Ethics Commission to engage in the side business. However, based on his personal use of the County email system, the Ethics Commission could consider revoking that permission.

The Ethics Commission Director stated that it was his intention to contact the employee and explain that permissions may be revoked unless the employee ceases using County time and systems to further his personal business.

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Referral: Medicaid Fraud

OIG-19-022

Complaint Summary: A non-English speaking resident of the County contacted the OIG via telephone, and a member of the OIG staff who is fluent in that language was able to interview the individual. The complainant said she was approached by a member of her community and told that if she provided certain identity documents this person could obtain benefits through Medicaid and other sources for the complainant. Concerned about possible fraud, the complainant said she tried contacting various state, federal and local agencies to no avail. Based on the events she described to the OIG and the fact that she had already tried to report the incident to other agencies, the OIG made inquiries on her behalf to locate the appropriate agency to assist her.

Outcome: The OIG referred the matter to the Montgomery County Police Department (MCPD), and a criminal investigation was opened and assigned to a detective for investigation. MCPD later advised us that an initial investigation revealed that the suspect, who either works for or has a contact within Medicaid, was targeting numerous members of the complainant's community. The criminal investigation is on-going. As this was criminal matter and was now being appropriately investigated, the OIG case was closed.

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If you are aware of fraud or misconduct
in County government activities,
contact the County Inspector General



☎ Confidential OIG Hotline: 240 777 7644

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