

Annual Report

Office of Inspector General

Fiscal Year 2007

October 2007



Office of Inspector General
Montgomery County, Maryland

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

Website: <http://www.montgomerycountymd.gov/ig>

- Please address specific inquiries about this report to Thomas J. Dagley, Inspector General, in writing or by calling 240-777-8240.
- Fraud, waste, and abuse can be reported to the confidential OIG Fraud Hotline. Call 24 hours a day, 7 days a week to 1-800-971-6059.



A Message from the Inspector General

In fiscal year 2007, the Office of Inspector General (OIG) focused on key factors set forth in Montgomery County Code §2-151 - increase efficiency and effectiveness of programs and activities funded by the Council; prevent and detect fraud, waste, and abuse; and increase legal, fiscal, and ethical accountability.

Highlights of this annual report include summaries of audit work that examined Montgomery County Government overtime compensation and selected capital improvements program projects with development district funding. We also summarize our reviews of the Planning Board's draft Development Review Manual and the Child Welfare Service's gift card program. Selected fraud, waste and abuse investigations are also reported, including two criminal prosecutions and a hearing officer's decision that resulted in the reversal of a contract award. OIG performance in these areas contributed to the County's governance system and leadership's priority for a responsive, accountable County Government.

Another highlight is the implementation of an OIG Fraud Hotline in December 2006, providing all individuals in the MCG workforce the opportunity to report, anonymously if desired, illegal or improper activity. The Hotline generated more than 40 reports of fraud, waste, or abuse in the first six months of operation. The success of the Hotline in its first year of operation provides a solid foundation to explore in fiscal year 2008 the benefits of extending the model to other County-funded agencies to further protect taxpayer dollars.

The Four-Year Work Plan issued in August 2005 continues to serve as the OIG strategic plan. The goals, strategies, and action items focus on improving performance in substantive areas. Some action items and performance measures have been modified to ensure our work reflects the needs of today's stakeholders.

We acknowledge the invaluable assistance by the leaders and staff of County Government and independent County agencies with whom we work to bring about meaningful results. We look forward to working with the Council and Executive in fiscal year 2008.

**Office of Inspector General
Fiscal Year 2007 Annual Report**

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Mission, Vision, and Goals

The OIG's mission is to conduct objective and independent audits, inspections, and investigations relating to Montgomery County Government (MCG) programs, operations, and independent County agencies to:

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

Statutory Responsibilities

The OIG was established by the Montgomery County Council in 1997. The OIG is an independent office – its responsibilities as prescribed by Montgomery County Code §2-151 are:

1. review the effectiveness and efficiency of programs and operations of County Government and independent County agencies;
2. prevent and detect fraud, waste, and abuse in government activities; and
3. propose ways to increase the legal, fiscal, and ethical accountability of County Government and County-funded agencies¹.

To carry out our responsibilities, we:

- maintain an independent objective organization to conduct audits, reviews, and investigations. We comply with generally accepted government auditing standards published by the Comptroller General of the United States. In addition, we rely on standards published by the Institute of Internal Auditors, the President's Council on Integrity and Efficiency, and the Association of Inspectors General;
- take appropriate action to prevent and detect fraud, waste, and abuse;
- receive and investigate credible complaints from any person or entity;
- report violations of law to the State's Attorney for Montgomery County or another appropriate agency;
- notify the County Council and Executive of serious problems in County programs;
- review existing and proposed legislation and regulations to strengthen controls and increase accountability; and
- submit reports with recommendations, as appropriate, to the County Council and Executive.

¹ The County-funded agencies include the Montgomery County Public Schools, the Maryland-National Capital Park and Planning Commission, the Washington Suburban Sanitary Commission, Montgomery College, the Housing Opportunities Commission, the Revenue Authority, and any other governmental agency (except a municipal government or a State-created taxing district) for which the County Council appropriates or approves funding, sets tax rates, or approves programs or budgets.

Challenges

Referral of Fraud, Waste, and Abuse Information

In our 2006 annual report, we reported the challenge of effectively implementing an independent Fraud Hotline to ensure County employees, contractors, suppliers, and residents have the opportunity to communicate, anonymously if desired, concerns about fraud, waste, and abuse. We reported that through fiscal year 2006, the vast majority of individuals who contacted the OIG were residents and that while it is important for this flow of information to continue, employees and those doing business with County-funded agencies needed to be encouraged and given the means to confidentially report concerns.

In fiscal year 2007, considerable progress was made with the implementation of an OIG Fraud Hotline for Montgomery County Government (MCG), beginning with a press conference on December 14, 2006 by the new County Executive and Inspector General. An important challenge we continue to face at year-end is effectively communicating the Hotline's existence to all employees, contractors, and suppliers of MCG. It appears we were successful reaching out to all MCG employees with active email accounts as of December 2006, as well as all new employees who attended the mandatory orientation sessions beginning January 2007 sponsored by the Office of Human Resources. However, approximately 2,000 MCG employees without active email accounts may not have received the same detailed hotline information. In fiscal year 2008, we will continue working with Executive staff to address this challenge, as well as provide MCG contractors and suppliers with hotline information.

Regarding other County-funded agencies, only MCG was part of the Fraud Hotline's first year of operation. We will work with the Council, Executive, and other leaders in fiscal year 2008 to explore expanding the hotline to other County-funded agencies to prevent and detect fraud, waste, and abuse.

Whistleblower Protection

Another unresolved challenge reported a year ago that is related to the effectiveness of the OIG Fraud Hotline involves Montgomery County Code §33-10 (the County's whistleblower law). This law was enacted prior to the Council's creation of an OIG. In this regard, Section 33-10 states, in part, employees should first report illegal or improper actions to the individual responsible for corrective action. The law and related County personnel regulations state that the individual may be anyone from the employee's immediate supervisor up to and including the County Executive, or for legislative branch employees, the County Council. The law also states in unusual circumstances, or if a retaliatory action or coercion has taken place, the employee may file a report directly with either the Merit System Protection Board or the Ethics Commission. In our 2006 annual report, we reported that several employees advised the OIG that they were discouraged or prohibited from reporting concerns to the OIG. We recommended the County Code be updated to include the specific role of the OIG as an oversight office, and clearly state each employee's responsibility to report fraud, waste, and abuse.

While no specific action was taken to update Section 33-10 or related County personnel regulations in fiscal year 2007, the new County Attorney demonstrated his commitment to preventing fraud, waste, and abuse and prohibiting retaliation against employees who disclose

such conduct. In his article “Protecting County Government from Fraud and Abuse” in the August 2007 edition of *Legal Views* newsletter, he includes the statement “The hotline enables County employees and/or contractors to confidentially provide information to the Office of Inspector General about potential fraud, waste, and abuse.”

We look forward to working with the County Attorney and other MCG offices in fiscal year 2008 to encourage all employees to report concerns to the OIG and ensure they are protected when doing so. We recommended that all County managers be trained on the rights of County employees under Whistleblower Protection laws and the role and utilization of the Fraud Hotline.

Work Plan

This annual report addresses OIG activities in fiscal year 2007 (July 1, 2006 through June 30, 2007), including some audits and investigations that were completed during this period and reported in early fiscal year 2008. Similar to activities reported a year ago, our fiscal year 2007 work addressed various action plans described in our Four-Year Work Plan published in August 2005. Although some of this year’s work represents a modification to one or more action plans, the modifications were not deemed significant enough to publish a revised work plan.

Our planning process for fiscal year 2007 comprised four main steps: (1) identify a universe of Council-funded programs and activities; (2) determine a list of potential OIG projects from this universe; (3) conduct risk assessment; and (4) develop a plan to conduct audits, reviews, and investigations consistent with our legislative mandate. In fiscal year 2007, we had the opportunity to focus on several key components of the County’s governance system, including the adequacy of controls to ensure accountability for management actions, independence of internal audits, and transparency of operations.

Fiscal Year 2007 Results

The table below summarizes key OIG performance measures and results.

Table 1: Fiscal Year 2007 Performance Measures and Results

Outcomes/Results:	
• Percentage of audit recommendations accepted ²	67
• County funds recovered or put to different use as the result of audit findings or investigations	\$3,065,000 ³
• Questioned costs or potential savings	\$1,100,000
• Formal responses to fraud, waste, and abuse matters reported to management by the Office of Inspector General ⁴	10
Workload/Outputs:	
• Joint investigations with prosecutors	2
• Complaints opened	54
• Complaints closed (includes those received prior to FY 2007)	53
• Pending complaints (June 30, 2007)	37
• Audits/reviews/inspections begun ⁵	4
• Audits/reviews/inspections reported	4
Inputs:	
• Expenditures	\$534,614
• Workyears	4.9

Fiscal Year 2007 Results: Increase Efficiency and Effectiveness

Overtime Compensation - Interim Audit Report

In April 2007, we issued an interim audit report on a review of Montgomery County Government (MCG) overtime compensation policies and procedures as well as documents used to budget and compensate employees for overtime in selected departments. The review includes evaluating internal controls used to safeguard against the potential for abuse. Our work through June 30, 2007 included the two largest users of overtime compensation – the Fire and Rescue Service (FRS) and Police Department – as well as the Board of Elections, one of the smallest users of overtime.

Our report identified strengths in the approach used to manage overtime as well as conditions that required immediate corrective action. The audit disclosed no reportable findings for the Police Department or Board of Elections. We found generally that the Police Department

² Based on audit reports regarding MCG Overtime Compensation and Selected CIP Projects with Development District Funding

³ \$3,000,000 in budget reductions by Council as a result of the overtime audit; \$65,000 from a court-ordered restitution as a result of a recovery agent scheme investigation

⁴ Does not include management responses pending on June 30, 2007

⁵ MCG Overtime Compensation; Planning Board Development Review Manual; HHS Gift Cards; Selected CIP Projects with Development District Funding

implemented effective overtime policies and procedures including internal controls to protect against overtime abuse. In addition, the Department implemented a management information system capable of documenting and providing management with the tools needed to monitor overtime use. For the Board of Elections, although there were no findings in our interim report, we provided the Director with suggestions to strengthen internal controls for overtime in a separate memorandum.

The interim report includes six findings and recommendations that address deficiencies in the design or operation of internal controls as it relates to the payment of overtime compensation in FRS. Our findings and recommendations identified corrective actions needed by FRS, the Department of Finance, and the Office of Management and Budget (OMB):

- Finding 1 - FRS overtime policies and procedures have not been updated since 1993 even though significant changes in the management of overtime have taken place. We recommended FRS update or re-write its policies and procedures and disseminate them to all FRS personnel to ensure all significant changes in the use and management of overtime are clear. We also recommended that a component of the FRS overtime policy include periodic self-assessments by management to ensure compliance.
- Finding 2 - FRS internal controls and management oversight were not sufficient to ensure the accuracy of timesheets used to pay overtime and protect against abuse. We recommended that FRS, in consultation with the Department of Finance, develop and implement sufficient internal controls to ensure the accuracy and completeness of FRS timesheets and protect against abuse. We recommended that the internal controls address the need for a specific separation of duties between individual employees, supervisors, and management.
- Finding 3 - FRS did not have a comprehensive management system for collecting, analyzing, and reporting available overtime data needed to measure the efficiency and effectiveness of overtime compensation and develop budgetary requirements. We recommended that FRS identify the operational and funding requirements for a comprehensive FRS management system, capable of tracking and analyzing the use of overtime. As part of the process, we recommended FRS conduct research to identify and evaluate other County systems, including the Police Department system, and fire departments in other jurisdictions for use as a benchmark and to save development time and costs.
- Finding 4 - The use of FRS overtime compensation from fiscal years 2004 to 2007 was not linked to efficiency or other key performance measures and results developed by FRS and approved by OMB. We recommended that FRS, in consultation with OMB, develop and implement appropriate measures for the Administrative Services, Community Risk Reduction Services, Operations, and Wellness, Safety, and Training programs that help ensure the use of overtime compensation by employees is linked to the FRS performance management system and the County's budget decision-making process.
- Finding 5 - Formal County-wide responsibility for oversight of timekeeping procedures used to record and approve overtime compensation has not been established. We recommended the Department of Finance establish formal responsibility for oversight of MCG timekeeping procedures used to record and approve overtime compensation. We also recommended the oversight include conducting, on a risk assessment basis, periodic

internal audits of procedures and business processes used to record, approve, and justify overtime compensation at selected County departments/offices.

- Finding 6 - Unrealistic FRS overtime budgets used during the fiscal years 2004 to 2008 budget process did not provide FRS management, the Executive, and Council with accurate and meaningful cost data. We recommended that FRS, in consultation with OMB and Finance, develop an effective and efficient overtime budget process by collecting accurate and timely overtime information on employee timesheets, and using this information to: analyze overtime trends by project; target areas of high overtime use; prepare staffing requests; and develop realistic overtime budgets.

Incident to the audit, we identified approximately \$1.1 million in questionable FRS overtime compensation payments for calendar year 2006, based on documentation available to us during the audit. In addition, incident to the approval of the fiscal year 2008 operating budget for FRS, the Council reduced the Executive's recommended FRS overtime budget by \$3 million. These figures are reflected in Table 1 of this annual report. A final report for this audit will be issued in fiscal year 2008.

Management's response and our assessment of corrective action to date for these findings and recommendations are summarized in the Appendix.

Fiscal Year 2007 Results: Prevent and Detect Fraud, Waste, and Abuse

The OIG opened 54 new fraud, waste, and abuse complaints in fiscal year 2007. Complaints were handled in a variety of ways. For example, after preliminary investigation, some complaints were closed because we were unable to validate the allegation(s). For other investigations in which the allegation was validated, our results were reported to management and/or a prosecutor for a decision. Further, information not of a confidential nature from certain complaints was referred to management for attention after determining an independent OIG investigation was not the best way to address the concern. As reported in Table 1, 10 formal responses were received by the OIG as the result of reporting fraud, waste, and abuse matters to management.

Land Development

As a continuation of OIG priorities in fiscal year 2006, we investigated several land development complaints in fiscal year 2007. Our priorities included not only investigating allegations of fraud and abuse but also whether County policies and procedures allow management to effectively prevent and detect illegal or improper conduct in the application, development review, and decision-making processes. While our work continued to address concerns related to the Clarksburg Town Center and other up-County development, we also focused on the integrity of data/information submitted by applicants for other development projects and the effectiveness of internal controls to prevent abuse in areas regulated by forest conservation, flood plain, and other environmental laws. During fiscal year 2007, the OIG coordinated its investigations, as appropriate, with various County and State of Maryland agencies with oversight responsibilities.

Joint Investigations with Prosecutors

In fiscal year 2007, we continued to pursue matters that were jointly investigated with prosecutors. These cases included allegations involving contract fraud, a recovery agent scheme, and land development. In addition, we initiated new cases based on information reported to us by employees, contractors, and residents. One such case that remained open at year-end involves allegations that complaints to County officials of illegal solid waste dumping were not properly handled. Another new case was initiated when the OIG received allegations of an illegal pyramid scheme operated by a County employee.

For all joint investigations, the violation of any criminal statute(s) is determined by a prosecutor, with OIG responsibilities focusing on providing investigative support and determining whether any County policy or procedural deficiencies may have been a contributing factor. When deficiencies are identified, they are reported to senior management with recommendations for corrective action.

A summary of three cases jointly investigated in fiscal year 2007 follows:

- **Contract Investigation**

In 2005, the OIG received allegations of contract fraud involving the installation of lights at a baseball field in Olney Manor Recreational Park. A contractor reportedly did not perform to the specifications of a contract awarded by the Maryland-National Capital Park and Planning Commission (MNCPPC) by failing to upgrade wiring and conduits and not completing work required under the contract. Although no criminal charges have been filed, an investigation revealed substantial evidence of non-performance. On April 3, 2007, incident to a bid protest involving an electrical/lighting contract for other ball fields at this park, a MNCPPC hearing officer declared this contractor a non-responsible bidder and reversed the contract award. At year-end, the decision had been appealed to Montgomery County Circuit Court.

In August 2007, we learned that the decision of the MNCPPC hearing officer may not have been communicated to all procurement officers of other County-funded agencies and, therefore, this information was not available to decision-makers responsible for contract awards involving other County-funded capital projects. We learned that another County-funded agency may have awarded an electrical/lighting contract in July 2007 to the same contractor without knowing about the April 2007 MNCPPC decision. The OIG plans to work with the Council and management in fiscal year 2008 to improve the dissemination of this type of publicly available information to all procurement officers in a timely manner. Without this information, County-funded agencies are limited in their ability to prevent fraud and abuse.

- **Recovery Agent Scheme**

Beginning in fiscal year 2006, we conducted a joint investigation with the State's Attorney's Office, which resulted in a North Carolina man pleading guilty to a felony theft scheme involving County funds. The investigation revealed the individual defrauded the County by posing as a recovery agent for unclaimed funds. He presented letters and powers of attorney claiming to represent companies rightfully due the unclaimed funds. Based on his assertions, the County issued checks to him through a business account he created. He deposited those

checks into his business account and used the funds for personal expenses. The dollar loss to the County exceeded \$65,000. In June 2007, the violator pled guilty in Montgomery County Circuit Court to one count of felony theft scheme. In August 2007, he was sentenced to a period of five years incarceration (all suspended) and five years probation. Full restitution to the County was ordered as a condition of probation.

- **Pyramid Promotional Scheme**

We conducted a joint investigation with the State's Attorney's Office concerning a MCG Department of Public Works and Transportation employee who reportedly used the County email system to engage in a pyramid scheme that included the participation of other County employees. In May 2007, the employee was indicted by a Montgomery County Grand Jury for one count of felony theft scheme and one misdemeanor count of operating a pyramid promotional scheme. An investigative report was issued to management for an administrative decision. In August 2007, the employee pled guilty. Sentencing is pending.

Fraud Hotline Implementation

In the Four-Year Work Plan, we recommended consideration be given to establishing and promoting a formal fraud-referral system (including a hotline) operated by the OIG as a tool for employees, contractors, suppliers, and residents to report fraud, waste, and abuse. In June 2006, we issued a special report summarizing the benefits of an independent hotline, noting that such a hotline is consistent with a trend among government agencies to use hotlines as a deterrent and to send a positive message about leadership's commitment to protect public resources. In December 2006, the OIG Fraud Hotline was activated for MCG employees and contractors with the support and participation of the County Council and Executive at a "kickoff" press conference. The Hotline is designed to ensure that all members of the MCG workforce have the opportunity to report, anonymously if desired, any illegal or improper activity, including specific actions that may have resulted in the loss of County taxpayer dollars.

The OIG Fraud Hotline is operated by a third-party partner who provides a customized toll-free number (1-800-971-6059). The company, who provides similar services to more than 1,000 clients, makes the Hotline available on a 24-hour basis, seven days a week and has the capacity to receive complaints in more than 150 languages.

Through June 2007, more than 40 reports of fraud, waste, and abuse were sent to the OIG via the Fraud Hotline. Approximately 55 percent of the reports were anonymous. Thirteen categories of reports were used by the contractor to communicate information to the OIG. The most active categories were: Policy Issues, Fraud, Theft of Time, and Theft of Goods/Services. The other categories were Wage/Hour Issues, Theft of Cash, Substance Abuse, Safety Issues and Sanitation, Retaliation of Whistleblowers, Fraudulent Insurance Claims, Falsification of Records, Employee Relations, and Discrimination.

While the total number of fraud, waste, and abuse reports to the OIG through June 2007 is comparable to prior fiscal years (when the Fraud Hotline was not available), the quality of information received appears to be higher. In addition, unlike reports received prior to December 2006, it appears most Hotline information is reported by employees, contractors, and suppliers rather than strictly County residents.

It is also worth noting that although implementation of the OIG Fraud Hotline on a pilot basis focused on MCG, some of the reports addressed concerns for programs or activities for other County-funded agencies, including Montgomery County Public Schools (MCPS) and Maryland-National Capital Park and Planning Commission. We noted in the Challenges section of this report that extending the Fraud Hotline to other County-funded agencies is worthy of consideration to further protect all taxpayer dollars.

Quick Response Reviews/Investigations

In fiscal year 2006, we began implementing a quick response approach to help ensure certain OIG reviews and investigations provided management with timely information for specific issues brought to our attention. We found that the quick response approach is a useful tool, especially for audits or investigations with precise objectives, or where a streamlined reporting process increases the likelihood of providing management with the information needed to take corrective action in a timely manner. Other conditions for using a quick response approach include: the audit or investigation is requested by management; the problems or suspected problems are known; the program or activity needing review has a previous audit history; a clearly defined deadline or target date exists for completing the review; or, there is strong support from management for a quick response.

In fiscal year 2007, we relied on the quick response approach to investigate and report a number of credible complaints received via the OIG Fraud Hotline and other sources. The following are examples:

- **Gift Cards, Child Welfare Services, Department of Health and Human Services**
In response to an OIG Fraud Hotline report, we conducted a quick response investigation in May and June 2007 which disclosed that although corrective action was initiated regarding certain internal controls weaknesses identified by a Maryland Department of Human Resources audit, a lack of management oversight and other deficiencies remained. We discussed the results of our review and recommendations for corrective action with management and reported the following to the Director in a memorandum dated August 1, 2007:
 - Individual gift cards are not tracked from the time of purchase through disbursement
 - Independent physical counts of the gift card inventories should be performed periodically by a supervisor/manager or designee
 - There have not been any summary reports for management on gift card expenditures and there have not been any measurements developed to determine the effectiveness of the program
 - Dollar values of the gift cards in inventory ranged from \$5 to \$25. A review of the gift card denominations should be conducted to determine if the dollar values of gift cards could be increased in order to reduce the number of cards in inventory
 - The gift card inventory included returned gift cards with minimal value. A review of the policies and procedures for returning gift cards with minimal value should be performed to determine the benefits of maintaining them in inventory

- Policies and procedures for using the Food and Clothing Voucher Tracking Form should be evaluated due to non-compliance with the existing policy
- The combination on the safe where the gift cards are stored should be changed annually

DHHS management agreed with our assessment and recommendations, stating corrective action would be taken.

- Theft of Time Allegation

The OIG received an anonymous complaint alleging a County employee was paid for work hours that were not accurately reported on timesheets approved by the employee's supervisor. The complaint alleged the employee often left work early to attend college classes but recorded work hours on timesheets as though a full day was worked. A preliminary investigation indicated that although the employee was given supervisory approval to work a compressed schedule and adjust work schedules in order to attend classes, the adjustments were not reflected on the employee's approved timesheets. The investigation remained open at year-end.

Fiscal Year 2007 Results: Increase Legal, Fiscal and Ethical Accountability

Planning Board's Development Review Manual

Incident to our investigation of numerous land development concerns reported to the OIG, Planning Board, and others in fiscal years 2006 and 2007, we reviewed and made recommendations to improve the Planning Board's March 1, 2007 draft Manual of Development Review Procedures. Our recommendations focused on improving the effectiveness of the Board's internal controls and ensuring accountability for management actions, including enforcement actions, when possible fraud or abuse is detected by staff or residents. We made recommendations to revise existing language or address procedural gaps in the draft Manual in a March 23, 2007 memorandum to the Chairman. The recommendations are summarized below:

- Recommendation 1 - Develop and implement procedures to substantiate the integrity and reliability of information on land development applications. The procedures should assign accountability for this verification to a specific staff member, such as the lead reviewer, and clearly itemize what action the assigned individual will take to verify key information. The procedures should document the steps to be taken to report the results in the staff report.
- Recommendation 2 - Develop and implement policies and procedures for staff to report alleged inaccurate, misleading, or false information to the appropriate official. This will allow staff to consistently and objectively report these concerns and allow management to track allegations and results in a meaningful way. Suitable administrative penalties for the submission of inaccurate, misleading, or false information on applications should be published in the Manual, up to and including referring potential criminal matters to an independent investigative or law enforcement agency.
- Recommendation 3 - Establish procedures to verify the professional certifications of applicants and their representatives with the appropriate regulatory board. If potential violations are discovered, the respective board should be promptly notified in writing. This notification, the regulative board's response, and the Planning Board's handling of

any violations should become a permanent record and considered in all future work by the Board and staff.

- Recommendation 4 - The Certificate of Compliance and Statement of Justification requirements included in the draft Manual should require applicants to certify conformance to all federal, state, and local laws and regulations. The Certificate should be used to oblige applicants to reveal existing easements or other restrictions which govern the use of the subject property and to certify the accuracy of data contained in the application.
- Recommendation 5 - All forms submitted to MNCPPC should have standard legal language for the applicant and/or representative to attest to the accuracy of the information provided.

A final draft of the Development Review Manual was issued in June 2007. As reported in our March 23 memorandum, we believe an independent performance audit of the Planning Board's controls and capacity to prevent and detect fraud or abuse in land development matters is needed to help strengthen the governance system for the County's land development matters.

Audit of Selected Capital Improvements Program Projects with Development District Funding

In fiscal year 2007, we completed the field work for an audit of selected Capital Improvements Program (CIP) projects identified as receiving funding from the Clarksburg Town Center Development District (CTCDD) created in March 2003 with the Council's passage of Resolution 15-87. The Resolution provided \$17 million for infrastructure improvements. The projects we examined - Stringtown Road Extended and CTCDD: Roads - account for approximately \$1.6 million and \$9.5 million, respectively.

Although our audit results were reported in early fiscal year 2008, a summary of the findings and recommendations appears below. For the Stringtown Road Extended project, there were no reportable findings. For the CTCDD: Roads project, we found that improvements are needed in the administration of management processes used to implement the development district and to coordinate infrastructure road construction projects.

- Finding 1 - The absence over the past four years of a designated administrator and written procedures resulted in weaknesses in the coordination of key management processes used to implement the CTCDD: Roads CIP project. We recommended the Chief Administrative Officer (CAO) take appropriate action to ensure a comprehensive approach is developed to implement the CTCDD and all other development districts created by the Council. We recommended that an administrator be formally designated for each development district, including the CTCDD. This individual should be responsible for preparing a detailed business process that ensures all key budget, finance, public works, procurement, and legal requirements are addressed. We also recommended that the CAO ensure sufficient policies and procedures are in place to ensure the availability and reliability of all official records prepared by Executive staff throughout the implementation of each development district.
- Finding 2 - The County may not be complying with Section 14-16 of the County's development district law regarding competitive bidding for road projects, including two substantially completed by the developer. Also, action should be taken to document the

business processes that have been and will be used to justify disbursement of development district funds for infrastructure road improvement projects in the CTCDD: Roads CIP project. We recommended that the CAO take the necessary action to clarify and document specific business processes used to justify disbursement of development district funds authorized for CTCDD infrastructure road improvements. We also recommended that the CAO obtain a formal opinion from the County Attorney as to whether the County's approach to date to construct the CTCDD infrastructure road improvements complies with Chapter 14 and related County laws.

- Finding 3 - As of July 2007, key cost data, expenditure/funding schedules, and descriptions included in the CTCDD: Roads CIP project description form did not accurately account for certain development district funds authorized in 2003. We recommended that the CAO take the action necessary to ensure all key cost data, expenditure/funding schedules, and project descriptions included in the CIP budget for the CTCDD: Roads project accurately reflect the development district funds authorized for infrastructure road improvement projects. We also recommended that, to the extent necessary, the CAO formally request clarification from the Council regarding the maximum amount of development district funds to be disbursed for all infrastructure road improvement projects included in Resolution 15-87, including those in Exhibits C and D.

Management's response and our assessment of corrective action to date for these findings and recommendations are summarized in the Appendix.

OIG Effectiveness

Our plan to survey key stakeholders in July-August 2007 regarding the effectiveness of OIG services was postponed to give taxpayers, elected officials, executive leaders, managers, employees, and civic organization leaders the opportunity to review this annual report prior to rating the OIG as "effective", "not effective", or "neutral". While such a survey was conducted for the first time in July-August 2006 (with the results published in last year's annual report), we believe the use of a survey to assess performance can be more meaningful by surveying stakeholders after they have had the opportunity to read this annual report and consider a full year of activity related to the new OIG Fraud Hotline. The survey results will be published on our website in 2008 and in our fiscal year 2008 annual report. We plan to include stakeholder survey results as a key measure of OIG performance in the Executive's performance budgeting results initiative for fiscal year 2009.

Administrative Issues

In addition to performing financial and performance audits, evaluating fraud, waste, and abuse allegations, and conducting investigations, the OIG is committed to several key administrative issues in support of the inspector general concept.

Professional Development and Performance Excellence

As in preceding years, OIG team members were well qualified in fiscal year 2007 to pursue our statutory responsibilities and actions plans included in the Four-Year Work Plan. As an independent office, we ensured: objectivity was maintained in all phases of our work; professional judgment was used to plan and perform our work and report results; and, work was

performed by employees who were professionally competent. Over the past two year period, OIG staff have relied on MCG-sponsored training, Association of Government Accountants, USDA Graduate School, Association of Certified Fraud Examiners, and American Institute of Certified Public Accountants for continuing professional education in the areas of performance management, financial and performance auditing, fraud investigations, and ethics. In addition, one member of the OIG team is pursuing a Masters in Business Administration at the University of Maryland.

The OIG also made contributions to performance excellence programs at the county, state, and national levels. For example, the Inspector General served as an Examiner in 2007 for the Baldrige National Quality Program, based in the U.S. Department of Commerce, Gaithersburg, Maryland. He also served as a trainer and member of the Executive Guidance Board for the Maryland Performance Excellence Awards process sponsored by the University of Maryland.

Audit and Investigative Standards

The Comptroller General's government auditing standards were revised during fiscal year 2007, with new requirements taking effect January 2008. The standards require audit organizations to ensure an independent peer review is periodically performed resulting in an opinion as to whether an organization's system of quality control is designed and being complied with to provide reasonable assurance of conforming to professional standards. In this regard, the last OIG peer review was conducted in 2004 with policy and procedure updates taking effect in October 2004. The peer review found the OIG to be in compliance with applicable professional standards. In last year's annual report, we reported that the next peer review was to take place in late fiscal year 2007. However, it is now scheduled for fiscal year 2008 which represents the third year of the current Inspector General's four-year appointment. Prior to the peer review, OIG policies and procedures will be updated in accordance with the revised auditing standards issued by the Comptroller General. Our investigative standards continue to be those published in May 2004 by the Association of Inspectors General (AIG).

To help comply with professional standards appropriate for inspector general offices at the county government level, the OIG is a member of the AIG, with the current Inspector General receiving certification in 2001. In fiscal year 2008, other OIG staff will have the opportunity to receive AIG certification training.

Professional Relationships

The OIG meets periodically with Council members, the Executive, Chief Administrative Officer and senior staff, the County's external auditor, and managers from the Office of Legislative Oversight, Montgomery County Public Schools, Maryland-National Capital Parks and Planning Commission, Montgomery College, and the Washington Suburban Sanitary Commission. In addition, we meet periodically with state and federal auditors and prosecutors, and other inspectors general. During these meetings, standards applicable to the inspector general community are discussed along with other matters of mutual interest. As in prior years, fiscal year 2007 meetings helped ensure OIG audits and investigations did not duplicate or conflict with other efforts.

During fiscal year 2007, the Inspector General and staff made several presentations to County employees and residents to communicate the unique role of the OIG in County government, and to solicit ideas as to how our performance could be improved. For example, a presentation was made in October 2006 to Montgomery County Taxpayers League members and an article was published in the League's *County Taxpayer* newsletter regarding the establishment of the OIG Fraud Hotline. As another example, a presentation was made in March 2007 to the local chapter of the Association of Government Accountants at its monthly meeting.

IG Staffing and Project Time

During fiscal year 2007, authorized workyears totaled 4.9, consisting of an Inspector General, Deputy Inspector General, Assistant Inspectors General (1 full-time and 1 part-time), Office Manager, and an intern. We experienced short-term vacancies in the Deputy Inspector General and Assistant Inspector General positions. More than 60 percent of our direct time (hours dedicated to audit, review, and investigations) focused on four areas: land development, capital improvements program (CIP) projects, MCG overtime compensation, and implementation of an independent OIG Fraud Hotline. Other areas receiving priority attention included: workers' compensation fraud allegations, the handling of certain employee misconduct complaints, and joint investigations with prosecutors regarding allegations of fraud or theft.

As a result of several Fraud Hotline complaints received in fiscal year 2007, the OIG made some adjustments to its work plan for fiscal year 2008. For example, we postponed plans to conduct additional capital project audit work involving facility construction for MCPS and Montgomery College projects; instead, we will review the adequacy of management control, policies, and procedures for certain programs and activities in the Department of Health and Human Services.

APPENDIX

OIG Report Findings and Recommendations - Status of Corrective Action

A key OIG responsibility is to propose ways to increase legal, fiscal, and ethical accountability. This includes using standards issued by the Comptroller General and the Association of Inspectors General to review management's response to audit findings and recommendations and track the corrective action planned or taken. The table below describes the status (as of September 2007) of corrective action for two audit reports included in this annual report. Formal follow-up audit attention has not been performed.

Interim Audit Report, MCG Overtime Compensation, April 2007
<p>Finding 1 - Management's response concurred with our assessment, indicating the 1993 policy is being re-written. The response indicated that after the new policy is drafted, it must be reviewed to determine any obligation to bargain over the changes. In a September 2007 update, FRS advised the policy remains in the revision stage. The update also reported bi-weekly FRS audits have been used to ensure corrective action.</p>
<p>Finding 2 - Management's response concurred with our assessment, stating existing FRS policy was not followed and acknowledging the potential for overtime abuse. The response stated the draft revised policy will be reviewed by Finance and OHR to ensure adequate internal controls and separation of duties. In a September 2007 update, FRS advised the development of an updated index code system has improved the tracking of expenses, and that the changes have provided management with a valuable improvement tool.</p>
<p>Finding 3 - Management's response concurred with our assessment, stating the process to reorganize index codes began several months earlier. FRS plans to implement the use of project codes for all overtime by July 1, 2007. A September 2007 update stated FRS was moved to the forefront of the MCTime (electronic timesheets) project to help address this finding, with an 18-24 month estimate for implementation.</p>
<p>Finding 4 - Management's response concurred with our assessment, indicating there is a renewed emphasis on data management and validating existing performance measures. The response stated performance measures will include a focus on assessing the use of overtime versus the use of full-time positions. In a September update, FRS advised a part of the new Executive Performance Plan will include performance requirements to address this finding in more detail.</p>
<p>Finding 5 - While management's response concurred with our assessment, it was not clear whether corrective action planned includes establishing formal responsibility for oversight of MCG timekeeping procedures used to record and approve overtime compensation, or conducting periodic internal audits of procedures used to record, approve, and justify overtime compensation at selected County departments/offices, as recommended. An update will be included in our final audit report.</p>
<p>Finding 6 - Management's response concurred with our assessment, indicating that OMB is working with FRS to develop a realistic budget for overtime that will be ready for the approved FY 2008 budget. In a September update, FRS reported that the Council reduced FY 2008 overtime funding \$3 million and that this change is being closely monitored.</p>
Audit Report, Review of Selected CIP Projects with Development District Funding, August 2007⁶
<p>Finding 1 – Management's response concurred there needs to be a comprehensive approach to implementing development districts, and stated consideration will be given to designating a development district administrator. Management did not agree that there have been weaknesses in the coordination of key management processes used to implement the CTCDD: Roads CIP project.</p>
<p>Finding 2 – Management's response indicated disagreement with this finding. The County Attorney issued a legal opinion on these issues on September 7, 2007, after the audit report was released. It also appears there is disagreement with the recommendation that management clarify and document specific business processes that have been and will be used to justify disbursement of development district funds authorized for CTCDD infrastructure road improvements.</p>
<p>Finding 3 – Management's response indicated disagreement with this finding regarding the accuracy of cost data, expenditure/ funding schedules, and narrative descriptions in the CIP for certain development district funds authorized by the Council in 2003.</p>

⁶ Management issued its formal response to our findings and recommendations in August 2007.

Thomas J. Dagley
Inspector General
51 Monroe Street, Suite 802
Rockville, Maryland 20850
240-777-8240
ig@montgomerycountymd.gov

Confidential OIG Fraud Hotline: 1-800-971-6059
Website: <http://www.montgomerycountymd.gov/ig>