



Committee: Directly to Council
Committee Review: N/A
Staff: Chris Cihlar, Director, Office of Legislative Oversight
Purpose: To introduce agenda item – no vote expected
Keywords: #OLO, work program, projects

AGENDA ITEM 18A
July 12, 2022
Introduction

SUBJECT

Introduction: Resolution to approve the Office of Legislative Oversight's FY23 Work Program

EXPECTED ATTENDEES

None

DESCRIPTION/ISSUE

The County Code requires the OLO Director to “prepare an annual Work Program, which shall be submitted to the Council for approval.” The FY23 Work Program was developed during a time of change and transition at the County Council. Two major factors have impacted the program as of today.

- the primary election of 22; most notably the shift in the date of said election
- the upcoming increase from nine to eleven County Councilmembers.

Both topics meaningfully influenced the creation of this program. Most notably, significant space was left in the program to be updated with additional topics or projects. A final note is that OLO expects it will be tasked with providing a climate impact statement for all bills. This assignment is not reflected in the formal program because the bill has not been voted on by the County Council. OLO will work in FY23 to be flexible to Councilmembers' needs and, as events warrant, OLO will shift its focus to address topics of significant importance to Councilmembers as they arise.

This report contains:

Staff Report

Draft Resolution

OLO FY23 Work Program

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Resolution No.: _____
Introduced: July 12, 2022
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Fiscal Year 2023 Work Program of the Office of Legislative Oversight

Background

1. Chapter 29A, Montgomery County Code, establishes the Office of Legislative Oversight to serve as the principal means through which the Council exercises its legislative oversight functions. This includes providing the Council with information and recommendations concerning the operations of public and private agencies, programs, and functions for which funds are appropriated or approved by the Council.
2. The law establishing the Office of Legislative Oversight specifically authorizes the Office to conduct special program or budget analyses at the request of the Council.
3. Section 29A-6 provides that the Director, Office of Legislative Oversight, shall prepare an annual Work Program, which shall be submitted to the Council for approval. On July 12, 2022, the Council introduced this resolution that outlines projects to be included on the Office of Legislative Oversight's FY23 Work Program.

Action

The County Council for Montgomery County, Maryland, approves the attached Fiscal Year 2023 Work Program for the Office of Legislative Oversight.

This is a correct copy of Council action.

Judy Rupp
Clerk of the Council

OLO FY23 Work Program

- Project #1 Community Engagement for Racial Equity and Social Justice
- Project #2 An Examination of Available Gun Data and Gun Violence
- Project #3 Update on MCPD Traffic Stop Data
- Project #4 Racial Equity and Social Justice Impact Assessments for New Legislation
- Project #5 Racial Equity and Social Justice Impact Assessments for Zoning Text Amendments
- Project #6 Racial Equity and Social Justice Policy Handbook, Part 2
- Project #7 Master Plan Outcomes
- Project #8 Minimum Wage Impact: Tracking Financial Indicators
- Project #9 Economic Impact Statements
- Project #10 TDR and BLT Programs
- Project #11 Assist with Review of the FY24 Operating Budget
- Project #12 Revenue Estimating Group
- Project #13 Bethesda Urban Partnership
- Project #14 Staff Support for the Council's Audit Function
- Project #15 Management of the Council's Independent Audit Contracts
- Project #16 Nursing Homes in Montgomery County
- Project #17 Colocation of Housing and Public Facilities

Project #1

Community Engagement for Racial Equity and Social Justice

Principal Agencies: Office of Community Partnerships
Office of Racial Equity and Social Justice
Public Information Office
Legislative Information Office

Meaningfully engaging communities of color in the on-going development and implementation of policies and programs is a critical component of operationalizing racial equity in local government. As explained by the Government Alliance on Race and Equity (GARE):

“It is not enough to consult data or literature to assume how a proposal might impact a community. Involving communities impacted by a topic, engaging community throughout all phases of a project, and maintaining clear and transparent communication as the policy or program is implemented will help produce more racially equitable results.”¹

Black, Indigenous, and Other People of Color (BIPOC) have encountered obstacles to fully engaging in civic life since America’s inception. Denial of citizenship deprived Black and Indigenous Americans from having a voice in government during America’s earliest decades. While citizenship rights were extended to various BIPOC groups throughout the 19th and early 20th centuries, the struggle for fair participation in government did not end. Indeed, voter suppression efforts in many states and restrictive federal immigration policies have continued to prevent BIPOC from fully participating in government, even to this day.

The intent of this OLO project will be to understand best practices for enhancing community engagement with BIPOC residents in government decision-making and to describe the County’s alignment to these best practices. To the extent possible, this report will describe:

- Best practices for BIPOC community engagement developed by organizations, researchers, and local jurisdictions;
- Current community engagement practices across the County’s executive and legislative branches;
- Available community engagement data in County disaggregated by race, ethnicity, and geography; and
- The perspectives of local BIPOC organizations/residents on current and desired community engagement practices.

¹ Racial Equity Toolkit: An Opportunity to Operationalize Equity, GARE, December 2016, https://racialequityalliance.org/wp-content/uploads/2015/10/GARE-Racial_Equity_Toolkit.pdf

Project #2

An Examination of Available Gun Data and Gun Violence

Principal Agencies: Montgomery County Government, State of Maryland

The possession of guns by civilians in the United States vastly outpaces possession in the rest of the world. The U.S. has five times the number of firearms (393 million) compared to the next highest country – India, which has 71.1 million firearms. This disparity is of an even greater magnitude when considering India has over one billion more residents than the United States.

And yet, the availability of data on gun sales, ownership, possession, and use in the United States is very scattered and can be difficult to come by. Some laws, such as the federal Tiahrt Amendment, affirmatively restricts the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) from publicly releasing gun use data that could be used in research of crime gun use in the U.S.

This OLO report will respond to the Council’s interest to better understand data on the availability, use, and impact of guns in Montgomery County and the State of Maryland. The report will compile publicly available data broken down, to the extent possible, by demographics. The report will also examine the County’s ability to enact laws regarding firearms and will try to identify potential options for local legislation that could reduce gun violence in the County.

Project #3

Update on MCPD Traffic Stop Data

Principal Agency: Montgomery County Police Department

In 2020, OLO's report, *Local Policing Data and Best Practices*, described the Montgomery County Police Department's (MCPD) practices for compiling data on police interactions with the public, and their alignment with best practices to advance constitutional and community policing. This report included a brief analysis of disparities by race and ethnicity using 2019 traffic stop data from the publicly available DataMontgomery Traffic Violations dataset.

In 2021, a subsequent OLO report focused on traffic enforcement found, "Traffic stops are the most common interaction between police officers and the public. Studies show that Black and Latino drivers are stopped and searched during traffic stops for lower-level traffic violations at disproportionately higher rates compared to White drivers."²

This project will respond to the Council's request for an updated analysis of MCPD traffic citations, warnings, or safety equipment repair orders (SEROs) by the race and ethnicity of the driver. Specifically, OLO will examine data from the DataMontgomery Traffic Violations dataset for the five-year period from FY18-FY22 by race and ethnicity on:

- Citations and warnings by the section of the Maryland State Code that was cited; and
- Traffic stops by the residency of the driver (County resident or non-County resident).

² Rubin, L. and DeFazio, B., A Study on Reassigning Traffic Enforcement from the Montgomery County Police Department to the Montgomery County Department of Transportation, Montgomery County Office of Legislative Oversight, July 27, 2021, https://www.montgomerycountymd.gov/OLO/Resources/Files/2021_Reports/OLORReport21-10.pdf .

Project #4

Racial Equity and Social Justice Impact Assessments for New Legislation

Principal Agency: Montgomery County Government

In 2019, the County Council passed the Racial Equity and Social Justice Act requiring the Director of the Office of Legislative Oversight to complete Racial Equity and Social Justice Impact Statements (RESJIS) for all proposed legislation. Further, the RESJ Act requires the completion of these statements within 21 days of bill introduction and the development of an equity tool to conduct the impact assessments. OLO assumed these responsibilities on August 1, 2020. OLO will continue to produce RESJIS that assess the impact of the proposed legislation on racial and social inequities impacting residents of color and low-income communities in Montgomery County. When warranted, RESJIS will describe the intersection between the policy proposed and race, data on racial and social inequities, and proposed amendments for advancing racial equity and social justice.

Project #5

Racial Equity and Social Justice Impact Assessments for Zoning Text Amendments

Principal Agency: Montgomery County Planning Board

In 2020, the County Council passed amendments to the Racial Equity and Social Justice Act requiring the Director of the Office of Legislative Oversight to complete Racial Equity and Social Justice Impact Statements (RESJIS) for all proposed zoning text amendments. Further, Bill 44-20 requires the completion of these RESJIS within 21 days of ZTA introduction and the development of an equity tool to conduct the RESJ ZTA impact assessments. OLO will assume these responsibilities on August 1, 2021. OLO will produce RESJIS on ZTA's that assess their anticipated impact on racial and social inequities impacting residents of color and low-income communities in Montgomery County. When warranted, the RESJ ZTA impact statements will describe the intersection between the ZTA proposed and race, data on racial and social inequities, and proposed amendments for advancing racial equity and social justice.

Project #6

Racial Equity and Social Justice Policy Handbook, Part 2

Principal Agency: Montgomery County Government

A RESJ Policy Handbook describing research-informed policies and practices for reducing racial and ethnic disparities could inform OLO's racial equity impact assessments and the County's overall efforts to establish and implement racially equitable policies and practices. Relying on research and subject matter experts, this second part of the RESJ Policy Handbook project would identify best practices for narrowing racial and ethnic inequities in three policy areas: (a) PreK-12 Education and Child Well-Being, (b) Health and Safety, and (c) Civic Engagement and Services. Each handbook chapter will also describe the intersection between the policy area and race, and local data on disparities in the policy area by race, ethnicity, and income.

Project #7

Master Plan Outcomes

Principal Agency: Maryland-National Capital Park and Planning Commission

The County Council approves master plans to delineate the land use, development, public facility, and environmental vision for different geographic areas of Montgomery County. In this project, OLO will examine a sample of master plans approved within the past decade to evaluate how subsequent commercial, residential, and public facility development in the area compares to the vision set forth in the master plans. This analysis will focus on answering three sets of questions:

1. How do the number and type of residential units in projects that have reached final approval compare with the number and type of residential units envisioned for these properties in the master plan? How does the square footage and type of commercial development in projects that have reached final approval compare with the square footage and type of commercial development for these projects envisioned in the master plan?
2. For commercial, mixed-use, and residential projects that have been completed, how much property tax and impact tax revenues have been generated compared to the previous use of those properties?
3. What new public facilities have resulted from implementation of the master plan? Of the public amenities that were to be provided by county or state government, how many were realized?

OLO will attempt to answer the above three sets of questions based on development approvals and construction that has occurred since the approval of the master plans. As a master plan has an expected life of at least two decades, an analysis of development occurring within the past decade necessarily will reflect partial outcomes, not the final build out of the master plan.

Project #8

Minimum Wage Impact: Tracking Financial Indicators

Principal Agency: Office of Legislative Oversight

On November 7, 2017, the County Council passed Bill 28-17 (Sec. 27-20A) "Human Rights and Civil Liberties -- County Minimum Wage" which required that the minimum wage in Montgomery County for all employers reach \$15.00 by the year 2024. Additionally, the bill required that the minimum wage increase with inflation unless the County Director of Finance determines that certain economic conditions have not been met.

To ensure that businesses in Montgomery County and the County economy as a whole are not adversely impacted by the County's minimum wage increases, Bill 28-17 also required that the Office of Legislative Oversight "provide to the Council, by January 31 of each year, a report containing data related to the implementation of the County minimum wage and the local economy." The Council did not specify the variables to be included in this annual report.

OLO Report 2019-1 (released January 15, 2019) identified and reported on 17 high-level economic indicators and compared the County with the performance of nine surrounding jurisdictions to serve as a benchmark for future years. The report offered guidance about how to interpret the meaning of changes in these indicators as related to the County's minimum wage law and described the relationship between the variables and other factors affecting the County's economy. This project was updated in January, 2022.

The OLO report due in January 2023 will review and update these economic indicators. This report will also update the discussion of the County's minimum wage with respect to Maryland House Bill 166/Senate Bill 280 (enacted March 28, 2019, and effective June 1, 2019) which increased the State minimum wage. The State Act phases in an increase in the State minimum wage to \$15.00 per hour by January 1, 2025, with a longer phase-in for employers with 14 or fewer employees.

Project #9

Economic Impact Statements

Principal Agency: All County-funded agencies

Since March 1, 2020 the Office of Legislative Oversight has been required to prepare an economic statement for each new bill introduced by the Council. Per the requirements of Bill 10-19, the economic impact statements evaluate the “costs and/or benefits to private organizations and individuals in the County attributable to a change in the law.”

Each statement includes the following sections:

- Summary of the bill’s impact on private organizations and residents in the County and its overall impact on the County economy;
- Description of the bill;
- Discussion on the sources of information, assumptions and methodologies used to arrive at the estimates and conclusions made in the analysis;
- Description of the variables that could affect the economic impact of the bill;
- Analysis of the costs and benefits of the bill for businesses and residents, focusing particularly on eight outcomes—workforce, taxation policy, property values, incomes, business operating costs, capital investment from the private sector, economic development, and competitiveness;
- Questions related to the economic impacts of the bill for Councilmembers to consider; and
- Works cited.

In FY23, OLO will continue producing an economic impact statement for each new bill introduced by the Council.

Project #10

TDR and BLT Programs

Principal Agencies: Montgomery County Government

As proposed by the Council's Planning, Housing, and Economic Development Committee, OLO will prepare a report that examines the current status of two County farmland preservation programs. The County established the Transferable Development Rights (TDR) and the Building Lot Termination (BLT) programs to preserve agriculture activity and open space and to allow property owners to recoup equity lost from the creation of the low residential density Agricultural Reserve.

In this report, OLO will examine the history of the TDR and BLT programs from their inception through today. The report will review the original intent of the TDR and BLT programs and will assess how well implementation over time has aligned with program goals and objectives. The report will include a study of available data on past and current supply and demand for TDRs and BLTs in the County.

Project #11

Assist with Review of the FY24 Operating Budget

Principal Agencies: Montgomery County Government

During the spring of 2023, OLO staff will team with Central Council staff to prepare analyses for Committee and Council worksessions on the FY24 operating budget. This project is similar to OLO's operating budget-related assignment in recent years. For this portion of the FY23 Work Program, the OLO Director will work collaboratively with the Council Staff Director to identify specific budget areas for OLO staff assistance. Priority consideration will be given to topics that OLO has studied before.

Additionally, OLO will assist the County Council on additional budget-related analysis throughout the year. OLO will be on call to provide support and analysis for a limited number of tasks that may include fiscal impact statements, collective bargaining provisions that result from labor negotiations, non-competitive awards, or unanticipated items that arrive in agencies' budget proposals.

Project #12

Revenue Estimating Group

Principal Agencies: Montgomery County Government

Bill 6-21, Finance - Revenue Estimating Group – Established, enacted by the County Council on March 16, 2021, amended the County Code to establish the Revenue Estimating Group. The duties of the Revenue Estimating Group include: regularly reviewing and analyzing revenue attainment; developing revenue forecasts; developing a methodology to forecast revenue; and providing quarterly reports on revenue projections to the County Executive and the County Council. As stipulated in Bill 6-21, membership in the Revenue Estimating Group must include one or more representatives from the Office of Legislative Oversight. OLO staff will participate in the work of the Revenue Estimating Group as required by the County Code.

Project #13

Bethesda Urban Partnership

Principal Agency: Bethesda Urban Partnership, Inc.

Chapter 68A of the County Code authorizes the County to establish urban district corporations to provide services within the County's urban districts. By law, an urban district corporation exists for five years after its articles of incorporation are accepted for recording by the State Department of Assessments and Taxation. The urban district corporation can be extended for an unlimited number of additional five-year terms by a resolution adopted by the County Council and approved by the County Executive. Before the County renews the corporation's term, the law requires the Office of Legislative Oversight to conduct a performance evaluation.

In December 2013, the County Council approved Resolution 17-955, which reauthorized the Bethesda Urban Partnership, Inc. (the Partnership) as the corporation for the Bethesda Urban District for its fifth five-year term. The current term began on February 1, 2014 and ends on January 31, 2019.

OLO's evaluation of the Bethesda Urban Partnership will be submitted to the Council in summer 2022. The report will include:

- Background information on urban districts in general and other designated districts in downtown Bethesda;
- An overview of the Partnership's governing structure and brief history of the organization since its creation in 1993;
- Descriptions of the Partnership's staffing, the services it provides and the Partnership's finances;
- A review of the progress that the Partnership made based on their new 2018 strategic plan; and
- Feedback from County Government and Community Representatives who interact with the Partnership or benefit from its services.

Project #14

Staff Support for the Council's Audit Function

Principal Agencies: All County-funded agencies

Council Resolution 16-826, adopted January 27, 2009, calls upon the Council's Government Operations and Fiscal Policy (GO) Committee "to continue to strengthen the Council's independent review and oversight of the County's financial reporting, management control, and audit activities." When performing these functions, the GO Committee meets as the Council's Audit Committee, with the Council President and Vice President serving as ex-officio voting members. The resolution requires the GO Committee to meet as the Council's Audit Committee at least four times a year.

Council Resolution 16-826 assigns the Office of Legislative Oversight the responsibility to coordinate staff support for the GO Committee when it meets as the Audit Committee. During FY23, the Committee is scheduled to receive regular updates from the Office of the Inspector General and the Office of Internal Audit, receive a report from the County's external auditor on the results from the audit of the FY22 financial statements, submit an end-of-year report to the Council, and address other issues as needed.

As directed by the Council resolution, OLO will ensure that the Committee receives "assistance from the Council staff, the Office of the Inspector General, Executive Branch and other County agency staff, and contractors with appropriate expertise" in carrying out its "oversight of financial reporting and risk assessment."

Project #15

Management of the Council's Independent Audit Contracts

Principal Agency: Montgomery County Government

Section 315 of the County Charter requires the Council to contract with a certified public accountant to perform an annual independent audit of the County Government's financial statements. The Council also contracts for the annual audit of the financial statements of the employee retirement plans and the Montgomery County Union Employees Deferred Compensation Plan.

Since 1991, the Council has assigned the Office of Legislative Oversight (OLO) the responsibility to act as the Council's contract administrator and provide support to the Council during the period of audit engagement. OLO carries out these responsibilities with oversight and guidance from the Council's Audit Committee. The Audit Committee consists of the members of the Government Operations and Fiscal Policy Committee (GO), with the Council President and Vice President serving as *ex officio* voting members.

The FY23 Independent Financial Audit NDA funds the independent audits of the FY22 financial statements issued by the County Government, the employee retirement plans, the consolidated retiree benefits trust, and the Montgomery County Union Employees Deferred Compensation Plan. FY23 is the third year of the Council's contract with SB & Company to provide audit services.

Project #16

OLO Carryover Projects

Principal Agencies: All

- **Project 16** (Formerly Project #19 FY22 Workplan): **Nursing Homes in Montgomery County** - While the COVID pandemic challenged all residents of Montgomery County perhaps no one group was more impacted than residents of nursing homes. The County Council is interested in better understanding the universe of nursing homes in Montgomery County, the amount of money the County spends to support these homes, how state and local laws impact how nursing homes in the County are run and, ultimately how the Council can better support nursing homes and their residents located in Montgomery County.

In particular this report will focus on what regulations, as they relate to nursing homes are with the County's authority to regulate, how the County can enhance state regulations, how the County can respond to concerns about nursing homes voiced by County residents and how information regarding quality of care and access to nursing home information is as transparent as possible to the families of patients.

Project #17

Colocation of Housing and Public Facilities

Principal Agency: Montgomery County Government

Colocation is the sharing of real estate (land and building) and services (infrastructure, technology, etc.) by two or more organizations, among public facilities that has a long history in Montgomery County. Many of these endeavors, as documented by the Maryland-National Capital Park and Planning Commission, can be found here. <https://montgomeryplanning.org/tools/research/special-studies/colocation-of-public-facilities/>

While there is indeed a long history of colocation among public facilities, what has generally not occurred is the colocation of public facilities with housing initiatives. The County Council is interested in understanding what strategies other jurisdictions have used to successfully incorporate the inclusion of public facilities with housing development projects. This report will examine what practices have been successful elsewhere and how these practices might be effectively implemented in Montgomery County.