

Montgomery County, Maryland
Office of the County Executive
Office of Internal Audit



Audit of Wage Requirement Law Compliance

October 4, 2013

Highlights

Why MCIA Did this Audit

Contractors who provide services to the County are subject to the Montgomery County Code provisions regarding compliance with certain wage requirements payable to the Contractor's employees. The Office of Business Relations and Compliance (OBRC), Department of General Services (DGS) received notice of allegations that a County contractor, CAMCO, LLC, (CAMCO) was not paying employees in accordance with the County's Wage Requirement Law. CAMCO performs cleaning services for the Montgomery County Department of Transportation (MCDOT). County Code Section 11B-33A (h)(2) directs the County to enforce the law and perform random and other audits necessary to do so, and investigate any complaint of a violation. As a result of the allegations received, the Director of DGS requested the Office of Internal Audit (MCIA) to audit CAMCO's compliance with the law. Our audit also included reviewing aspects of the County's monitoring of its contract with CAMCO.

What MCIA Recommends

MCIA is making two recommendations to DGS dealing with the its determination of the remedy or remedies to seek against the contractor for statutory or contract violations arising from noncompliance with the Wage Law and two recommendations to MCDOT to improve its contract monitoring procedures related to invoice payment. DGS and MCDOT concurred with the findings and recommendations. CAMCO disagreed with our overall findings and conclusion that it violated the law. We reviewed CAMCO's counter arguments and continue to believe that CAMCO has misinterpreted and violated the law.

October 2013

Audit of Wage Requirement Law Compliance

What MCIA Found

Our review found that CAMCO did not comply with the Wage Law. At a minimum, CAMCO inappropriately reduced 14 of its employees' hourly wages for health insurance costs by approximately \$2-\$3 below the minimum required Wage Law rate. In addition, we found that CAMCO had not properly completed or submitted the necessary information to qualify for the Wage Requirements Law Reduction for employer health insurance cost. Had CAMCO obtained approval for the wage reduction, the amount of the reduction would apply only to the health insurance premiums actually funded by the employer, as supported by information provided by the employer to the County. We confirmed with CAMCO officials that the costs of health insurance premiums, which were imposed on the employees, was borne entirely by the employees and CAMCO did not pay any portion of the health insurance premiums. As such, the County could possibly exercise its prosecutorial discretion in issuing a citation and imposing a fine under Montgomery County Code §1-19 to CAMCO for its noncompliance with the County Code provisions contained in §11B-33A. Also, CAMCO's violation of the Wage Law constitutes a contract breach, for which the County may seek available remedies in enforcing the CAMCO contract.

We found, regarding the CAMCO contract, that MCDOT has adequately designed and implemented procedures for contract monitoring and has followed those procedures. However, we identified an opportunity for improving and strengthening the contract monitoring procedures in the review of contractor invoices to ensure the County is paying for all contractor employee hours performed under the contract.

TABLE OF CONTENTS

Objectives	1
Background.....	1
Scope and Methodology	4
Results of Testing	9
Findings	12
Other Matters	13
Recommendations	14
Comments and MCIA Evaluation	15
Appendix A – Invoice Sample Selection	16
Appendix B – Net Wage Pay Difference Calculations.....	18
Appendix C – Time Reporting Variances.....	22
Appendix D – CAMCO Letter Regarding Health Insurance Contribution	25
Appendix E – Document Requests.....	26
Appendix F – Excerpts from Wage Requirements Law and Contract	32
Appendix G – Available Remedies for the County	37
Appendix H – MCDOT Response	38
Appendix I – DGS Response	39
Appendix J – CAMCO, LLC Response.....	40

Objectives

This report summarizes an audit performed by Cherry Bekaert LLP under contract with the Office of Internal Audit (MCIA) to review and determine compliance with the Wage Requirements Law under Montgomery County Code Sec. 11B-33A. The primary objective of the audit was to review and determine compliance by CAMCO, LLC, (CAMCO) a County contractor, with the Wage Requirements Law under Montgomery County Code Sec.11B-33A. We also reviewed aspects of the County's monitoring of its contract with CAMCO.

This internal audit report was performed in accordance with consulting standards established by the American Institute of Certified Public Accountants and generally accepted government auditing standards established by the Government Accountability Office as appropriate. Cherry Bekaert's proposed procedures, developed to meet the objectives stated above, were reviewed and approved in advance by Montgomery County Internal Audit (MCIA). Interviews, documentation review, and field work were conducted from October 2012 to May 2013.

Background

Wage Requirements Law

The County Council passed, on June 11, 2002, and the County Executive signed on June 20, 2002, Bill 5-02, relating to Wage Requirements pertaining to service contracts. Under this law, a contractor who provides services to the County is subject to the Montgomery County Code regarding compliance with certain wage requirements payable to the Contractor's employees. If the resultant contract will be subject to the Wage Requirements law ("Wage Law"), then there will also be mandatory submission requirements applicable to the corresponding solicitation. The Chief Administrative Officer adjusts the wage rate annually, effective July 1st of each year. The following table details the respective Wage Law amount effective for the time period under review.

Table 1 – Living Wage Rate

Living Wage Rate	
July 1, 2011 – June 30, 2012	July 1, 2012 – June 30, 2013
\$13.20	\$13.65

Contractor Certification of Wage Law Compliance

In accordance with County Procurement requirements, a bidder on a contract that is subject to the Wage Law must submit a signed Wage Requirement Certification Form with its bid or proposal submission. On the form, the contractor must indicate its intent to comply with the law or indicate which exemptions or reductions from the Wage Law it is qualified to take. In addition, not-for-profit organizations that are exempt from the Law can decide to opt-in to comply with the law. The following table details the exemptions or reductions, and optional compliance, for which a contractor may qualify under the Wage Law. CAMCO did not qualify for exemption status because, at the time of contract execution it was estimated that the payments received under the contract would exceed \$50,000. As of September 2012, payments to

CAMCO under the contract were greater than \$50,000. Also, since CAMCO is not recognized as a not-for profit organization, neither the nonprofit organization exemption nor opt-in election are applicable. In addition, as discussed below, CAMCO did not act in accordance with the Wage Law when it reduced the required wage amount below that required under the Wage Law, by subtracting its claimed internal costs related to offering health insurance (rather than an amount paid by the employer for the health insurance premium) from the required wage amount.

Table 2 – Allowable Wage Law Exemptions, Reductions and Optional Compliance

Type	Name	Description
Exemption	Exemption Status	A contractor, who, at the time a contract is signed, has received less than \$50,000 from the County in the most recent 12-month period and will be entitled to receive less than \$50,000 from the County under that contract in the next 12-month period. Montg. Co. Code, §11B-33A(b) (1) (A) & (B).
Exemption	Non-profit Wage and Health Information	A contractor that is a non-profit organization is exempt from coverage Montg. Co. Code, § 11B-33A (b) (3).
Reduction	Wage Requirements Reduction	A contractor that is a “covered employer,” may reduce its hourly rate paid under the wage requirements by an amount equal to, or less than, the per employee hourly cost of the employer’s share of the health insurance premium. . Montg. Co. Code, § 11B-33A (d) (1) & (2); see <i>also</i> 11B-33A (c) (1) & (2).
Opt-In	Non-profit’s Comparison Price	A contractor that is a non-profit may opt to pay its covered employees the hourly rate specified in the Wage Law and not be penalized in a solicitation due to the additional amount in its price that results from paying the Wage Law amount. See Montg. Co. Code, § 11B-33A (b) (3) & (c) (2).

Qualifications for Allowable Reduction to the Required Wage Law Amount

In order to qualify for the allowable health insurance reduction to the required wage, to an amount below that required under the Wage Law, a contractor must indicate at the time of, and in, its bid or proposal (on the Wage Requirement Certification Form, or otherwise), its intent to take the health insurance reduction (including how it and its subcontractors will comply with the wage requirements, and that it has sufficient funds to meet the wage requirements¹). In addition, a contractor must certify within its bid or proposal submission the per-employee hourly cost of the employer's share of the premium for that health insurance. The contractor also must indicate the amount of any reduction it will take from the Wage Law rate amount paid to employees². Per the Wage Law, a contractor is allowed to reduce the effective wage amount paid to an employee who is covered by the health insurance only by all or part of the per employee hourly cost of the employer's share of the health insurance premium³.

Wage Law Compliance – Contractor

Each contractor subject to the Wage Law must perform tasks to show compliance with the Wage Requirement Law. First, the contractor must certify that it, and each of its subcontractors with whom it works, is aware of, and will comply with, the applicable wage requirements. Second, the contractor must keep and submit any records necessary to show compliance with the law. Third, the employer must conspicuously post notices informing employees of the wage requirements. Further, the contractor must submit quarterly certified payroll reports to the Department of General Services' (DGS) Office of Business Relations and Compliance (OBRC)⁴.

Wage Law Compliance - OBRC

OBRC has responsibility for monitoring contractor's compliance with the Wage Law. The OBRC requires contractors to submit quarterly payroll reports to support the wage paid to employees. OBRC reviews the reports to ensure wages paid are in accordance with the law. In addition, OBRC may perform on-site visits at contractor locations to ensure notices are posted as required by the Wage Law. Lastly, OBRC handles complaints from contractors' employees, and others regarding compliance with the law by covered employers.

Contractor Selected for Audit

The Director of DGS requested that CAMCO be audited, due to allegations received regarding CAMCO not paying wages in accordance with the Wage Law. In response, MCIA directed its audit contractor, Cherry Bekaert, to audit CAMCO's contract with the County, focusing on compliance with the Wage Law and invoicing under the contract.

¹ Montg. Co. Code, § 11B-33A (c) (1).

² Montg. Co. Code, § 11B-33A (d) (1) & (2); 11B-33A (c) (1) & (2).

³ "If a contractor or subcontractor commits in its bid or proposal to provide health insurance to any employee who provides services to the County, the contractor or subcontractor may certify in its bid or proposal the per-employee hourly cost of the employer's share of the premium for that insurance, and reduce the wage paid under subsection (e) to any employee covered by the insurance by all or part of the per-employee hourly cost of the employer's share of the premium." [County Code, Section 11B-33A(d)]

⁴ Montg. Co. Code, § 11B-33A (h) (1) (A) - (C).

By way of background, in February 2012, CAMCO responded to an Invitation for Bid (IFB) to provide parking facilities miscellaneous cleaning services at County parking facilities. Services included maintenance on parking lots and garages in Wheaton, Bethesda, Silver Spring, and Montgomery Hills. The contract was solicited and awarded on behalf of the Montgomery County Department of Transportation (MCDOT) Parking Division. The IFB solicitation had 14 bidders and was awarded with cost as the determining factor. CAMCO, LLC, was awarded the contract as the lowest responsive⁵ and responsible⁶ offeror. The term of the contract is for one-year, with an option for the County to renew for two additional one-year periods. The contract start date was June 1, 2012. CAMCO employees work at Silver Spring and Bethesda locations, as well as Park & Ride lots throughout the County. There is a night crew that works in Silver Spring and Bethesda, and a weekend crew that works at all seven locations. Per discussion with CAMCO, it pays hourly wages of \$13.65 to helpers, and \$14.00 to supervisors; and it had approximately 31 employees working under the contract between June and September 2012.

Contract Monitoring MCDOT Parking Division

The contract monitoring procedures are performed by staff in the MCDOT Parking Division. A MCDOT designated contract administrator has responsibility for overseeing overall contractor performance. The contract administrator delegated to the garage on-site supervisor the responsibilities for day-to-day monitoring of contract activity, contractor employee time, and 1st review and approval of contractor invoices. Contractor employee time is captured on time cards that are retained by the on-site supervisor, who summarizes the time monthly on a spreadsheet that MCDOT sends to the contractor to use when invoicing the County.

Scope and Methodology

Wage Compliance Scope and Methodology

We reviewed CAMCO compliance with the Wage Requirements Law for the time period from June 2012 through September 2012, the first four months of the contract.

We conducted interviews with Procurement Specialists from DGS and staff from MCDOT to gain an understanding of the contract award process, contract monitoring procedures (with a particular focus on the monitoring of contractor employee time), and the process to review and approve contractor invoices for payment. Our review of documentation supporting the contract award process was more limited, as this has been tested in connection with other audits. Supporting documentation for tracking contractor employee time was reviewed as part of our invoice and employee testing. Lastly, we reviewed the County's online approval of contractor invoices or a sample of invoices processed by the County, as described below, during the period under review.

We obtained all invoices paid under the contract from June 2012 through September 2012, from the Contract Compliance Inspector of the MCDOT Parking Management Division. CAMCO issues invoices monthly for each of the seven parking locations, for a total of 28 invoices for the

⁵ From Procurement Regulations: Responsive OFFEROR: An Offeror who has submitted a bid that conforms in all material respects to the requirements of the IFB or a small purchase.

⁶ From Procurement Regulations: RESPONSIBLE OFFEROR: A person the Director has determined under section 6.3 to be capable of satisfying the County's needs and requirements for a specific contract.

four month period under review. Total hours worked by contract supervisors and helpers are allocated across all seven locations, using a cost allocation model developed for the contract by MCDOT. The Contract Compliance Inspector performs the cost allocation and provides CAMCO with the detail to include on invoices submitted. We reviewed invoices to determine the accuracy of the employee hours worked and invoiced by CAMCO, and if the invoicing was in accordance with contract terms.

We conducted interviews with CAMCO's General Manager and Vice President to gain an understanding of time keeping practices, payroll procedures, and fees deducted from employee pay. See Table 3 for our understanding of how CAMCO calculated employee pay. In addition, we also performed a site visit to CAMCO's offices. We obtained from CAMCO a management report listing of 31 employees who worked under the contract at some point during the period under review. We selected a sample of employees for testing to determine if the hourly wage rate was in compliance with the Wage Requirement Law. We also requested documentation and information from CAMCO supporting amounts claimed by CAMCO to have been paid to employees from June 2012 through September 2012. See Table 4 for listing of documentation and information requested for review.

Per our discussion with CAMCO management it determines employee net pay as follows:

Table 3 – CAMCO Employee Net Pay Calculation

	Payment Calculation	Where Documented
Gross Pay	Gross Hourly Rate X Hours worked	Facilities Sheet
Net Pay before Tax Deductions	Gross Pay – Deductions for Health, Dental, Life, Vision and CAMCO provided Cell Phone (single amount)	Facilities Sheet
Net Pay	Net Pay before Tax Deductions – State and Federal Tax Deductions	Pay Stub

Table 4- Documents and Information Requested from CAMCO

Documentation and/or Information Requested	Document and/or Information Received	Comments
Timesheets for June- September 2012	Yes	Each employee timesheet included the following: <ul style="list-style-type: none"> - hours worked per day - per location for each week during the month.
Hourly Wage Rate	Yes	The hourly wage rate was documented on Facilities Sheets provided by CAMCO.
Wages paid to employees June-	Yes	Copies of pay instruments (canceled

Documentation and/or Information Requested	Document and/or Information Received	Comments
September 2012		checks, check stubs or check templates) were provided. Payment to employees was supported by the presentation of one of the documents listed above.
Detail of deductions taken from employee gross pay by type of deductions and amounts for each employee	Partial	<p>Original documentation provided did not have deductions by type, and amount deducted per employee was not provided. Information was provided in lump sum for all health benefits.</p> <p>Facilities Sheets detailed deductions for healthcare and cell phones in the aggregate. There was no information provided on a disaggregated basis for each or any of the services being deducted on the Facilities Sheets and check stubs.</p> <p>After May 8, 2013 meeting – Paystubs with itemized deduction amounts were provided. However paystubs were not provided for all employees for all pay periods under review.</p>
Per employee hourly cost of premium for insurance	No	<p>CAMCO claimed to be unable to, and did not, provide per employee premium information, despite our repeated requests.</p> <p>After May 8, 2013, meeting we spoke with CAMCO's health insurance contact to confirm the existence of the health insurance policy and obtain information about employee premiums. However, CAMCO management denied our request for the health insurance contact to provide us premium detail.</p>
Per employer hourly cost of employer's share of premium for insurance	No	<p>CAMCO provided invoices for monthly premiums billed to CAMCO. However the cost was not detailed on a per employee basis or cost per benefit type (health, dental or life insurance, or cell phone).</p> <p>After May 8, 2013, meeting CAMCO submitted a letter to the County which</p>

Documentation and/or Information Requested	Document and/or Information Received	Comments
		stated, "CAMCO, LLC does not contribute towards the cost of the health insurance benefit...."
Support for employee election or consent to receive health benefits	Yes with limitations	<p>Signed health benefit election forms for each employee were made available for viewing at CAMCO Offices. However, all signatures appeared to have been written in the same handwriting and there was no information pertaining to the costs to be borne by the employee accompanying the signed consent. In addition, we were told by CAMCO management that employees were required to take the benefits (i.e., they could not opt out of the program).</p> <p>After the May 8, 2013, meeting, forms for 19 of the 31 employees were provided.</p>
Copies of 2nd and 3rd Quarter 2012 OBRC Wage Requirement Law Payroll Report Submission	Yes	CAMCO provided documentation to OBRC. OBRC forwarded documentation received to MCIA. Documentation included Facilities Sheets and copies of pay instruments (cancelled checks).
3rd Quarter 2012 IRS Form 941 and supporting information	Partial	The required forms to be submitted to the IRS were provided, however the underlying records supporting the preparation of the forms were not provided for review as requested.
Health Insurer contract	Yes	Contract documentation for insurance broker, dental provider, medical provider, and life insurance provider. No contract for vision provider was provided. Except for dental coverage, the contracts did not indicate the cost of coverage on a per month, per employee basis.
Health Insurance Invoices for June – September 2012	Yes	Premium statements from the insurance broker detailing the total payment due for July, August and September were provided. No Premium was billed for June 2012. We did not request or obtain evidence that payments to the insurance providers

Documentation and/or Information Requested	Document and/or Information Received	Comments
		were actually made by CAMCO. However, per the September statement, no premium was outstanding, and based on CAMCO's letter to MCIA provided subsequent to the May 8, 2013, meeting, health insurance premium payments appear to have been funded solely by employees. (See additional details below regarding health insurance payments in the paragraph about the May 8, meeting.)
<u>Additional Documentation Requested May 8, 2013:</u> Proof of payment of August 1, 2012 health insurance premium	Yes	Received as of May 21, 2013, a copy of a bank statement that showed CAMCO made a payment to an insurance broker for health insurance premiums. As CAMCO previously indicated that they paid no premiums on behalf of the employees, it is presumed that the payment for health insurance premiums was funded by employee payroll withholdings.

We also attempted to compare the amount deducted from an employee's pay for health insurance premiums to a detailed invoice from the insurance provider to determine if the employee was being overcharged by CAMCO. Ultimately, CAMCO was unable to provide documentation of insurance premiums paid at that level of detail and therefore we were unable to perform this comparison.

We requested the required IRS Form 941 for the 3rd quarter of 2012 to confirm amounts paid to employees per pay records were in agreement with pay amounts reported to the IRS. While CAMCO provided the required IRS filing documentation, pay information per employee was not provided and, therefore, we could not confirm the amounts paid between the intended documents.

Lastly, a meeting was held in May 8, 2013 with Cherry Bekaert, MCIA, the staff of OBRC, and the General Manager and Vice President of CAMCO, LLC, to review the audit results. At that meeting, CAMCO representatives provided oral clarification on the employer portion of the health insurance cost and an example of additional documentation that could be provided regarding the employee health insurance deductions. As a result of the meeting, OBRC and MCIA requested CAMCO to confirm in writing whether it paid for any of the cost for its employees' health insurance premiums or simply passed on the costs (insurance premiums) to employees as CAMCO's General Manager had stated at the meeting. We also asked CAMCO to provide us support for any health insurance premium paid and additional pay documentation detailing the health insurance deductions from employee pay. In addition, CAMCO agreed to have us speak with its health insurance contact to obtain additional detail on the insurance

premium being paid by CAMCO on behalf on employees (and funded by employee payroll withholdings) and health insurance premium amounts being charged on a per employee basis.

Wage Compliance Sample Selection

Invoice Testing

We selected all 28 invoices for the months of June, July, August and September 2012 to review the accuracy and completeness of charges to the County, the invoices tested had a total dollar value of \$191,674.24. See Appendix A, Table A1 for the full listing of invoices reviewed.

In addition, we selected 6 of the 28 invoices with a total dollar value of \$93,185.07 for review of the MCDOT and Accounts Payable online payment approval testing. See Appendix A, Table A2 for the listing of the 6 invoices tested.

Employee Pay Rate Testing

We judgmentally selected a sample of 12 contractor employees designed to ensure coverage from each of the garages and other parking locations serviced by CAMCO. Total hours worked and amounts paid to the employees for the entire period under review were tested. Table B1 in Appendix B details the employee selected, as well as the months for which hours and pay were tested.

For the remaining 19 CAMCO employees we tested hours worked and amounts paid for one pay period during the time period under review. Table B2 in Appendix B details the employee selected, as well as the pay period for which hours and pay were tested.

Results of Testing

Following are the attributes tested and our testing results.

Table 5 – Attributes Tested for Contract Award Testing

Attribute Tested
A – Contract was properly solicited as an Invitation For Bid (IFB). IFBs are issued and public notice is given under the direction of the Office of Procurement. Responses to the IFB are received by the Office of Procurement, and the bids are tabulated and the lowest bidder is chosen and forwarded to DOT for evaluation
B – Department evaluates the bid for responsiveness and responsibility. The department then prepares a recommendation for award.
C – Procurement reviews recommendation and executes contract.
D – The Office of Procurement has the responsibility to check history of vendor before administering award. Negative documentation or contract issues are reviewed as a normal course of recommending an award.
E – The vendor is required to complete and sign a Wage Requirements Certification. The vendor may elect to reduce its hourly rate by an amount equal to, or less than, the per employee hourly cost of the employer's share of the health insurance premium.

- Based on our testing, we determined that the contract was awarded in accordance with Montgomery County policy and procedures and no exceptions were noted with regard to Attributes A-D.

- With regard to Attribute E, CAMCO did not seek the wage reduction or commit to providing health insurance at the time it responded to the solicitation on the Wage Requirements Certification form.
 - As mentioned above, at our request, CAMCO in May 2013 provided a written letter to the County (MCIA) in which it is stated that CAMCO, LLC, does not contribute towards the cost of health insurance benefit (i.e., the health insurance premium). The CAMCO letter stated that it does incur administrative costs in arranging for its employees to receive health benefits. However, administrative costs such as those claimed to have been incurred by CAMCO are not “the per employee hourly cost of the employer’s share of the premium” that is noted in the Wage Law. (See Appendix D for copy of letter.)
- Per Montgomery County Code Section 11B-33A (d), the proposing vendor is to provide in the bid documents “the per employee hourly cost of the employer’s share of the health insurance premium” to support a wage reduction. The documentation provided by CAMCO did not:
 - Segregate the employer cost for health benefits from the cost for dental and life insurances (or cell phones) being offered or provided to employees
 - Detail the per employee hourly cost of the employer’s share of the health insurance premium

Table 6 – Attributes Test for Invoice Testing

Attribute Tested
A – Invoice calculations are reasonable and accurate
B – Supporting documentation required by the contract was submitted with the invoice
C – Unallowable costs do not appear to be included in invoice submission
D – Invoice signed by Contract Supervisor
E – Invoice signed by Contract Monitor or designee
F – Invoice rates agree to contract rates
G – The dates of service on the invoices agree to service dates on employee time records
H – Locations noted on time records agree to locations noted on invoices

- With respect to Attribute C, our testing identified exceptions resulting from variances between contractor employee hours tracked by MCDOT and hours invoiced by CAMCO. See detailed information in Appendix C.
- We noted no exceptions pertaining to our testing of Attributes A, B, D-H.

Table 7 – Attributes Tested for Payment Approval Testing

Attribute Tested
A – Voucher approved by appropriate finance department person
B – Voucher approved by A/P
C – Amount per invoice agrees to amount paid

- We determined that the invoices tested were approved online in accordance with County and MCDOT Parking Division policies and procedures and that no exceptions were noted with regard to Attributes A-C

Table 8 – Attributes Tested for Employee Testing

Attribute Tested
A – Wage rate paid is in compliance with the Wage Requirement Law (\$13.65)
B – Determine if any employees on the OBRC Form or invoices are not on the employee listing provided
C – Hours worked under contract are recorded daily
D – Locations work performed are identified
E – Hours worked and wages paid are accurate
F – Pay was in accordance with the Fair Labor Standards Act ⁷
G –Deductions in pay being taken for company health insurance were in accordance with CAMCO established deduction amounts

As a result of our testing, we noted the following:

- Attribute A: The employee gross (i.e., prior to any deductions) wage as documented in CAMCO pay records reflected a gross wage amount that was equivalent to or greater than the required wage required at the respective pay date as set by the Wage Requirement Law. However, after deductions for health insurance benefits, the net wage rate paid to employees fell below the Wage Requirement Law in amounts ranging from \$2 per hour to as much as \$3 per hour. See Appendix B for calculation details of wages below the applicable wage rate.
- Attributes B – D: No exceptions were noted
- Attributes E – F: CAMCO had documentation supporting pay to employees in accordance with the Fair Labor Standards Act. However, inconsistencies related to the hours that employees worked were noted in the documentation supporting payment to employees.
- Attribute G: Initially, CAMCO provided the total aggregate amount deducted for health, life, dental, vision⁸ and cell phone benefits attributed to employees. Later, CAMCO provided pay stubs that detailed the payroll deduction imposed by CAMCO on the employee for each of these items.. Although CAMCO had a consistent methodology for employee payroll deductions (per hourly charge) we were unable to determine if the deductions taken by CAMCO for health insurance premiums were based on the amounts being charged by the health insurance provider because CAMCO was unable to provide sufficient detail for comparison purposes. We also noted that since amounts were deducted on a per hour basis this would seem to indicate that the charges to employees

⁷ The County specifically requested that Cherry Bekaert test for CAMCO compliance with the Fair Labor Standards Act, which requires employers to comply with the following provisions:

- Minimum Wage Standard- covered, nonexempt workers are entitled to a minimum wage of \$7.25 per hour effective July 24, 2009.
- Overtime Standard- Nonexempt workers must be paid overtime pay at a rate of not less than one and one-half times their regular rates of pay after 40 hours of work in a work week.
- Recordkeeping Standard- The following records must be kept: personal information, including employee's name, home address, occupation, sex, and birth day if under 19 years of age, hour and day when workweek begins, total daily or weekly straight-time earnings, regular hourly pay rate for any week when overtime is worked, total overtime pay for the workweek, deductions from or additions to wages, total wages paid each pay period, date of payment and pay period covered.

⁸ Documentation supporting the establishment of a vision plan was not provided by CAMCO.

were not tied directly to CAMCO's internal cost, including payments to health benefits providers. Furthermore, importantly, CAMCO representative acknowledged that it paid no portion of the health insurance premiums, and that all of the premiums were paid by the employees. See Appendix D.

See Appendix E for details of the documents and information reviewed in testing for the attributes listed in Table 8.

Findings

1. CAMCO is not in compliance with the Wage Requirements Law. CAMCO reduced amounts from employee's gross wages for health insurance, as documented in CAMCO pay records. These wage reductions were neither sought by CAMCO nor approved by the County at the time of the solicitation, or when the contract was awarded by the County. CAMCO also did not provide supporting information to show that the amounts it reduced from the employee wage rate that it was required to pay under the Wage Law were calculated based on "the per-employee hourly cost of the employer's share of the premium," or that the reductions to the required Wage Law amount were otherwise proper. Furthermore, CAMCO has acknowledged to us that it did not pay any part of the health insurance premium for employees from its own funds, but simply passed on all internal costs it incurred in providing a health benefit to its covered employees by reducing the employees' wages by the amount of those costs. Unlike the situation at CAMCO, a permissible reduction in the Wage Law amount must derive from health insurance premium costs that are incurred and paid for by the employer. CAMCO improperly reduced gross per hour wages between \$2-3 below the applicable Wage Law requirement amount for health insurance deductions. See Montg. Co. Code, §§ 11B-33A (c) & (d); 11B-33A (h) (1) (B); see also Appendix D.
2. CAMCO did not provide the required commitment to provide health insurance to covered employees, or the required certification regarding the amount by which it reduced the required Wage Law amount per employee, based on the per-employee hourly cost of the employer's share of the premium. On its Wage Requirement Certification form CAMCO did not request an exemption (by way of checking the appropriate box). Additionally, the bid/proposal documentation CAMCO submitted did not have any details on the per-employee hourly cost of the employer's share of the premium for health insurance to support the amount of any reduction from the Wage Law amount. As mentioned above, CAMCO subsequently stated in a letter to MCIA, that there is no employer contribution to the health insurance premiums paid by employees. Consequently, we concluded that each employee paid no less than the full amount of the health insurance premium, with no share of the premium paid by the employer. Therefore, CAMCO is not entitled to reduce the required wage amount. See Montg. Co. Code, §§ 11B-33A (c) & (d); 11B-33A (h) (1) (B); see also Appendix D.
3. The current invoice process does not ensure the County is paying for all work CAMCO performed under the contract. MCDOT has the official record of hours worked by CAMCO employees based upon the time cards retained by the County. MCDOT staff creates a summary of hours worked based upon the time captured on the time cards

retained. CAMCO also provides MCDOT with a summary of hours worked based upon their internal timekeeping records. MCDOT selects the lowest of either CAMCO or MCDOT's reporting of timed worked for invoicing. MCDOT uses the selected report in its allocation model to distribute the total hours for the month to each parking location being cleaned by CAMCO. MCDOT does this allocation to align hours and fees to the appropriate County funds as budgeted. MCDOT provides CAMCO the allocation results for CAMCO to submit invoices to the County for payment. The following variances were noted in the invoices reviewed (See Appendix C for complete details):

- In June 2012, CAMCO's report was 9 hours under the hours captured by MCDOT
- In July 2012, CAMCO's report was 18 hours under the hours captured by MCDOT
- In August 2012, CAMCO's report was 16 hours over the hours captured by MCDOT
- The hour variances between reports are for both labor categories (Supervisor and Helper) which have different labor rates.
- The net effect of the hour variances showed that the County underpaid CAMCO for a total of nine hours (based on the records maintained by MCDOT), the effect of which would result in an underpayment of \$150.50 during the four months tested (See Appendix C).

Other Matters

- The health insurance reduction allowed by the Wage Law pertains to only health insurance, and not to other types of insurance including dental, vision, or life insurance (or, as in this case, even cell phones). We noted that the CAMCO-applied benefit deduction includes health, dental, vision, life insurance, as well as cell phones (which is not a type of insurance), in reducing employee wage amounts below that required under the Wage Law.
- We were asked by the County to determine whether there was documentation at CAMCO to show that CAMCO had advised its employees regarding the cost to employees for health insurance premiums. During one of our site visits to CAMCO, we were shown signed health insurance documentation forms for employees. After the exit meeting we had with CAMCO, company officials did provide us with copies of the forms. The signatures on the forms we reviewed onsite and the copies subsequently provided were all dated June 8, 2012, and appeared to be in the same handwriting. The apparent same handwriting for signatures of different employees has created uncertainty as to whether the CAMCO employees actually completed the health insurance forms themselves. In addition, some forms did not have required signatures. Also, the forms we reviewed did not contain any cost information to indicate what would be the correct reduction in employee wages related to the health insurance being offered. We also did not see any evidence that employees were permitted to "opt-out" of taking health insurance benefits that CAMCO made available, and for which the employee paid the entire premium.

- We noted deficiencies in CAMCO's recordkeeping of hours worked. There were multiple discrepancies between time recorded on the timecards retained by the County and time recorded on CAMCO daily timesheets. In addition, we found multiple discrepancies between hours recorded on CAMCO daily timesheets and the hours used by CAMCO to calculate gross pay. The effect of these inconsistencies in recordkeeping does not affect amounts billed to the County since those invoices are based upon time records maintained by the County. See Appendix C.

Recommendations

Director, Department of General Services:

1. Determine what remedy or remedies to seek against the contractor for statutory or contract violations arising from noncompliance with the Wage Law. (See Appendix F listing provisions in County law and the Contract that provide remedy options available.)
2. In determining the appropriate remedy, including the assessment of liquidated or other damages, consider this audit report and any related calculations needed to quantify the individual and aggregate amounts by which CAMCO underpaid the required wage amount to covered employees, as a result of its violation of the Wage Law. See Appendix G for remedy details.

Director, Department of Transportation:

3. Assess the need for procedures to review hours reported by contractors when the contractor administrator or his designee have captured time worked directly from contractor employees using time keeping systems controlled and maintained by the County as well as the County's time keeping system being the source for contractor invoice details.
4. Develop and implement procedures for the contractor administrator or his designee to ensure contractor staff location assignments, time reporting and invoicing are properly aligned with fund budgets to reduce the need to perform allocations of contractor fees.

Comments and MCIA Evaluation

We provided the DGS, MCDOT and CAMCO, LLC, with a draft of this report for review and comment on July 25, 2013. MCDOT responded on August 14, 2013, and DGS responded on August 15, 2013. Both MCDOT and DGS noted agreement with the findings and recommendations presented in this report (see memos as Appendix H and I).

We received CAMCO, LLC's response (dated August 12, 2013) on August 15, 2013. The response is presented at Appendix J. The response provided by CAMCO presents a list of comments and questions. Ultimately, CAMCO disagrees with our findings and conclusion that it violated the Wage Law and also disputes certain of the facts provided.

Several of the comments from CAMCO reflect the company's view that payment of health insurance premiums has no bearing on the determination of its compliance with the Wage Law. CAMCO has indicated that its gross wage is in compliance with the mandated wage required. Further, CAMCO repeatedly stated that because there are no employer paid premiums, it is appropriate that it did not submit a waiver exemption request to the County. This is CAMCO's principle argument with respect to whether or not it is in compliance with the Wage Law. It represents an interpretation of the Wage Law that we believe is incorrect and is contrary to that of the County. The Wage Law clearly states that any reductions related to health insurance that reduce wages below the required Living Wage can stem only from the employer's share of a health insurance premium it pays, and that the reduction in the wage must be sought and presented by an employer, and approved by the County, at the time of the solicitation, as described previously in the Findings section of this report.

Several of the comments from CAMCO stated that it provided information requested for the audit. In Table 4 of this report, we provide details with respect to the information requested, timing of receipt, and any deficiencies in the information received. Based on our review of the comments received from CAMCO we have not made any to Table 4 which we believe accurately reflects the details associated with the information received.

CAMCO had comments regarding the timekeeping differences described in the report. Its comments were principally focused on the manner of how time is reported and approved by the County. These matters are not in dispute and have not resulted in any changes to the report.

We did make two changes to the report as a result of our review of CAMCO's response. The first pertains to our clarification that CAMCO withheld health insurance premiums and that employees could not choose to opt out of coverage. The second change we made was to clarify that the 31 employees referenced in this report, which were obtained from a CAMCO produced management report, worked on the contract at some time during the period under review. The reference to 31 employees is not meant to indicate that all 31 employees were assigned to the contract at the same time.

Appendix A – Invoice Sample Selection

Table A1 – Invoice Sample Selection

Location	Invoice #	Month Being Invoiced	Invoice Amount
Silver Spring	9936	June	\$24,667.00
Bethesda	9935	June	20,030.46
Wheaton	9937	June	3,340.88
Montgomery Hills	9939	June	259.46
Route 29	9938	June	1,022.20
Lot 355	9940	June	252.05
Transit Centers	9941	June	1,792.35
Silver Spring	10009	July	25,562.11
Bethesda	10008	July	20,769.22
Wheaton	10010	July	3,461.54
Transit Centers	10014	July	1,863.90
Route 29	10011	July	1,065.09
Montgomery Hills	10012	July	266.27
Lot 355	10013	July	266.27
Silver Spring	10056	August	26,657.05
Bethesda	10055	August	21,658.85
Transit Centers	10061	August	1,943.74
Route 29	10059	August	1,110.71
Lot 355	10060	August	277.68
Wheaton	10057	August	3,609.81
Montgomery Hills	10058	August	277.68
Silver Spring	10137	September	23,769.56
Bethesda	10136	September	19,312.77
Route 29	10140	September	990.40
Wheaton	10138	September	3,218.79

Location	Invoice #	Month Being Invoiced	Invoice Amount
Montgomery Hills	10139	September	247.60
Lot 355	10141	September	247.60
Transit Centers	10142	September	1,733.20

Total: \$191,674.24

Table A2 – Payment Approval Sample Selection

Location	Invoice #	Month Being Invoiced	Invoice Amount
Silver Spring	9936	June	24,667.00
Bethesda	9935	June	20,030.46
Wheaton	10010	July	3,461.54
Transit Centers	10061	August	1,943.74
Silver Spring	10137	September	23,769.56
Bethesda	10136	September	19,312.77

Total: \$93,185.07

Appendix B – Net Wage Pay Difference Calculations

Table B1 – Net Wage Pay Difference from Applicable Required Wage of \$13.25 for FY 12 and \$13.65 for FY 13 (Original 12 Employees)⁹

Employee	Month Tested	Gross Wage Rate	Health Insurance Deduction Rate	Net Wage Rate	Variance
1	June	\$14.00	\$3.18	\$10.82	\$2.38
	July	\$14.00	\$3.18	\$10.82	\$2.83
	August	\$14.00	\$3.18	\$10.82	\$2.83
	September ¹⁰	\$14.00	\$3.86	\$10.14	\$3.51
2	June	\$13.65	\$3.18	\$10.47	\$2.73
	July	\$13.65	\$3.18	\$10.47	\$2.73
	August	\$13.65	\$3.18	\$10.47	\$3.18
	September	\$13.65	\$3.18	\$10.47	\$3.18
3	June ⁶	\$13.65	\$3.34	\$10.31	\$2.89
	July ¹¹	\$13.65	\$3.18	\$10.47	\$2.73
	August	\$13.65	\$3.18	\$10.47	\$3.18
	September	\$13.65	\$3.18	\$10.47	\$3.18
4	June ⁶	\$14.00	\$2.90	\$11.10	\$2.10
	July	\$14.00	\$3.53	\$10.47	\$3.18
5	June	\$13.65	\$3.18	\$10.47	\$2.73
	July	\$13.65	\$3.18	\$10.47	\$3.18
	August	\$14.00	\$3.18	\$10.82	\$2.83

⁹ Employees were paid twice a month. The rates in the table reflect the per pay period amount for the month. If employee had significant increase or decrease in hours worked between pay periods the health insurance deduction and underpayment rates for the two pay periods were averaged to arrive at amounts for the table.

¹⁰ Rates are averaged for the month

¹¹ Payscale with itemized health insurance deductions was not provided. Rates are estimated based upon prior pay period deductions.

Employee	Month Tested	Gross Wage Rate	Health Insurance Deduction Rate	Net Wage Rate	Variance
	September	\$14.00	\$3.18	\$10.82	\$2.83
6⁹	June	\$13.65	N/A	N/A	N/A
	July	\$13.65	N/A	N/A	N/A
	August	\$13.65	N/A	N/A	N/A
	September	\$13.65	N/A	N/A	N/A
7	June	\$14.00	\$3.18	\$10.82	\$2.38
	July ⁶	\$14.00	\$3.19	\$10.81	\$2.34
	August ⁶	\$14.00	\$3.47	\$10.53	\$3.12
	September	\$14.00	\$3.18	\$10.82	\$2.83
8	June	\$13.65	\$3.18	\$10.47	\$2.73
	July ⁶	\$13.65	\$3.36	\$10.29	\$3.36
	August	\$13.65	\$3.18	\$10.47	\$2.73
	September ⁶	\$13.65	\$3.36	\$10.29	\$3.36
9	June	\$14.00	\$3.18	\$10.82	\$2.38
	July ⁶	\$14.00	\$3.36	\$10.64	\$3.01
	August ⁷	\$13.83 ¹²	\$2.81	\$11.01	\$2.64
	September ⁶	\$14.00	\$3.58	\$10.42	\$3.23
10	June	\$13.65	\$3.18	\$10.47	\$2.73
	July ⁶	\$13.65	\$3.36	\$10.29	\$3.36
	August ⁷	\$13.65	\$3.18	\$10.47	\$3.18
	September	\$13.65	\$3.18	\$10.47	\$2.73
11⁸	June	\$13.65	N/A	N/A	N/A

¹² Wage was \$13.65 in one pay period and \$14.00 in the other. This number represents an average.

Employee	Month Tested	Gross Wage Rate	Health Insurance Deduction Rate	Net Wage Rate	Variance
	July	\$13.65	N/A	N/A	N/A
	August	\$13.65	N/A	N/A	N/A
12¹³	June	\$13.65	NA	NA	NA
	July	\$13.65	NA	NA	NA
	August	\$13.65	NA	NA	NA
	September	\$13.65	NA	NA	NA

Table B2 – Net Wage Pay Difference from Applicable Required Wage of \$13.25 for FY 12 and \$13.65 for FY 13 (Additional 19 Employees)

Employee	Pay Period (PP) Tested	Gross Wage Rate	Health Care Rate	Net Wage Rate	Variance
1⁹	2 nd PP August	\$13.65	N/A	N/A	N/A
2	2 nd PP August	\$13.65	CNT ¹⁴	CNT	CNT
3	2 nd PP August	\$13.65	CNT	CNT	CNT
4⁹	1 st PP August	\$13.65	N/A	N/A	N/A
5	1 st PP August	\$13.65	\$3.18	\$10.47	\$3.18
6	1 st PP August	\$13.65	\$3.18	\$10.47	\$3.18
7	1 st PP July	\$13.65	\$3.53	\$10.12	\$3.53
8⁹	1 st PP July	\$13.65	N/A	N/A	N/A
9	1 st PP August	\$13.65	\$3.18	\$10.47	\$3.18
10	1 st PP August	\$13.65	\$3.18	\$10.47	\$3.18

¹³ No health insurance deductions taken.

¹⁴ CNT: Could not test for these individuals. The payroll documents received indicate that additional hours were worked outside of this contract. In addition, pay stubs with itemized health insurance deductions was not provided. Due to the lack of detail included in the documentation provided, we could not determine total hours worked under all contracts as well as total gross pay; the allocation of health care for testing could not be determined.

Employee	Pay Period (PP) Tested	Gross Wage Rate	Health Care Rate	Net Wage Rate	Variance
11	1 st PP August	\$13.65	\$3.18	\$10.47	\$3.18
12	1 st PP August	\$13.65	\$3.98	\$9.68	\$3.98
13	1 st PP August	\$13.65	\$3.48	\$10.17	\$3.48
14	1 st PP August	\$13.65	\$3.18	\$10.47	\$3.18
15	1 st PP August	\$13.65	\$3.53	\$10.12	\$3.53
16	1 st PP August	\$13.65	\$3.18	\$10.47	\$3.18
17	1 st PP August	\$13.65	\$3.18	\$10.47	\$3.18
18⁹	2 nd PP September	\$13.65	N/A	N/A	N/A
19⁹	2 nd PP August	\$13.65	N/A	N/A	N/A

Appendix C – Time Reporting Variances

Table C1 – Detail of Variances between MCDOT and CAMCO Time Reporting

Month	Labor Category ¹⁵	Hours per MCDOT timecard not captured by CAMCO	Hours reported by CAMCO not supported by MCDOT timecards	Net Hour Difference	Dollar Difference	Total hours per MCDOT timecards	Total hours per CAMCO timesheet
June Total						3576	3567
June	Supervisor	16	0	16	\$224.00 under invoiced		
June	Helper	1	8	7	\$95.55 over invoiced		
Total				9	\$126.00		
					Net Under invoiced		
July Total						3720	3702
July	Supervisor	8	0	8	\$112.00 under invoiced		
July	Helper	41	31	10	\$136.50		
					Under invoiced		

¹⁵ Supervisor labor rate- \$14.00
Helper labor rate- \$13.65

Month	Labor Category ¹⁵	Hours per MCDOT timecard not captured by CAMCO	Hours reported by CAMCO not supported by MCDOT timecards	Net Hour Difference	Dollar Difference	Total hours per MCDOT timecards	Total hours per CAMCO timesheet
Total				18	\$248.50		
					Net under invoiced		
August Total						3864	3880
August	Supervisor	0	16	16	\$224.00		
						Over invoiced	
August	Helper	16	16	0	\$0		
Total				16	\$224.00		
					Net over invoiced		
September Total						3439	3439

Table C2 – Detail of Variances between MCDOT and CAMCO Time Reporting for Employees

Employee	Total Hours per County timecards ¹⁶	Total Hours per CAMCO timesheet ¹⁷	Total Hours per CAMCO Facilities Sheet ¹⁸
1	664	664	680
2	688	688	680
3	680	680	672
4	264	248	240
5	688	688	680
6	856	887	976
7	672	688	664
8	672	664	656
9	664	664	672
10	680	680	672
11	296	256	176 ¹⁹
12	288	288	264 ²⁰

¹⁶ Timecards retained by County Contract Supervisor

¹⁷ Timesheet is submitted by CAMCO as support for the invoice

¹⁸ Facilities sheet is support CAMCO provided for payment calculation

¹⁹ Hours not listed for first period in June, first period in September, and second period in September.

²⁰ Hours not listed for first period in June.

Appendix D – CAMCO Letter Regarding Health Insurance²¹ Contribution

CAMCO, LLC

Janitorial and Painting Services

05/14/12

Larry Dickman
Manager, Office of Internal Audit
Offices of the County Executive
101 Monroe Street
Rockville, MD 20850

Per your request,

CAMCO, LLC is paying the current \$13.65 required by the Wage Requirement Law and providing some benefit to our employees working under contract 1014627.

CAMCO, LLC does not contribute towards the cost of health insurance benefit, but contributes our time and resources to have this benefits available to our employees. The cost is pass on employee receiving health, dental, vision, life, and cellular plans, as well as loans, advance payments, or any other wage disbursements.

CAMCO, LLC is well aware of the new wage increase coming this July 2013.

Best regards,



Julio Arce
CAMCO, LLC

7800 Airpark Road, Suite 23
Gaithersburg, Maryland 20879
Office: 301-330-4595 Fax: 301-330-8136
julioarce@msn.com

²¹ Date on letter should be May 14, 2013

Appendix E – Document Requests

Table E1 – Documentation and Information Reviewed to Determine Compliance with Wage Requirement Law

Requested Documentation and / or Information	Date Requested	Documents Received	Date Received	Comments Regarding Documentation and/or Information Requested and Received
<ul style="list-style-type: none"> List of CAMCO employees who have provided services under the listed contract. The employee listing is to include employee name, employee address, employee position, and employee wage. 	10/17/2012	<ul style="list-style-type: none"> CAMCO provided list of 31 employees that included employees' names, employees' addresses, employees' positions, employees' wages, and whether the listed employee elected to receive benefits. 	10/23/2012	<ul style="list-style-type: none"> A sample of 12 employees for testing were selected from the list provided. The employees on the list were included in the records provided to OBRC. (Attribute B)
<ul style="list-style-type: none"> CAMCO timesheets, payroll payment histories and benefit elections. 	10/17/2012	<p>During onsite visit at CAMCO Office we viewed examples and were provided copies of the following documents:</p> <ul style="list-style-type: none"> CAMCO Timesheets <ul style="list-style-type: none"> Timesheets included the following details per employee; hours worked per day per location for each week during the months reviewed. Payroll Payment Histories <ul style="list-style-type: none"> Facilities Sheet included the following details: 	11/8/2012	<ul style="list-style-type: none"> Timesheet details agreed to time captured and documented by MCDOT, except as noted in Observation 3. (Attributes C and D) We noted variances in hours recorded as worked between Timesheets and Facilities Sheets. (Attributes E, and F) Per CAMCO management the Facilities Sheets

Requested Documentation and / or Information	Date Requested	Documents Received	Date Received	Comments Regarding Documentation and/or Information Requested and Received
		<p>employee name, position, total hours worked for the pay period, gross hourly rate, and deductions from gross pay (Insurance: health, dental, life, vision, and cell phone plan) and net pay after listed deductions and check number. Check number per facilities sheet agreed to check issued to the employee.</p> <ul style="list-style-type: none"> • Pay Checks (Requested 84) <ul style="list-style-type: none"> ○ Paystubs (Received 21) included the following details net pay amounts from Facilities Sheet, applicable state and federal taxes deductions (FED WTH, FICA, MEDFICA, STATE-MD). Paystubs did not include check number. ○ Check templates (Received 31) included: employee's name period worked, check number, and net pay amount to employee. Check templates were in the form of a printed check without company logo. Check 		<p>detail the gross wage rate for employees. (Attribute A)</p> <ul style="list-style-type: none"> • Facilities Sheets did not include: itemized before and after tax deductions and net pay to employee after all deductions. (Attributes A, E and F) • The deduction amount detailed on the Facilities Sheet was one aggregate sum per employee for health, dental, life , vision and cell phone (if applicable) (Attribute G) • Paystubs did not include common details such as hours worked, gross wage rate, gross pay and before tax deductions. (Attributes A, E and F) • Check templates were missing signatures, bank routing number, and bank checking number. (Attributes A, E and F) • Health insurance forms for employees were all dated 6/8/2012

Requested Documentation and / or Information	Date Requested	Documents Received	Date Received	Comments Regarding Documentation and/or Information Requested and Received
		<ul style="list-style-type: none"> templates included check numbers. <ul style="list-style-type: none"> ○ Canceled Checks (Received 32). Viewed and were provided canceled check. Canceled check included check number, routing number, amount, payee, drawer, drawee, and date. Several, but not all, checks included an endorsement on the back. • During onsite visit at CAMCO Office we viewed the following documents, but were not allowed to take copies: Benefit Elections <ul style="list-style-type: none"> ○ Health Insurance Form that listed the types of health insurance offered to employee 		and had printed signatures that appeared to be the same handwriting on all forms. Health insurance forms did not have any cost information to indicated what would be the employee deduction related to the health care being provided. (Attributes A, E and G)
<ul style="list-style-type: none"> • Paystubs that were outstanding at time of site visit. Request included 44 paystubs for 12 employees. 	11/5/2012	<ul style="list-style-type: none"> • Received fax from CAMCO that included check templates. The check templates included the employee's name, amount to be paid after taxes, and the period worked. The check templates did not have the tax deductions found on paystubs. 	12/8/2012	<ul style="list-style-type: none"> • Check templates were missing signatures, bank routing number, and bank checking number. (Attributes A, E and F)
<ul style="list-style-type: none"> • 3rd Quarter 2012 IRS Form 941 filing with supporting documentation and schedules. 	2/14/2013	<ul style="list-style-type: none"> • Provided the actual IRS Form and IRS and State supporting schedules 	2/22/2013	<ul style="list-style-type: none"> • Schedules provided did not include pay information per employee that is summed for inclusion on IRS forms. (Attributes A, E and F)

Requested Documentation and / or Information	Date Requested	Documents Received	Date Received	Comments Regarding Documentation and/or Information Requested and Received
				<ul style="list-style-type: none"> Per CAMCO management the information provided is what they could obtain from their payroll system
<ul style="list-style-type: none"> Contract with Health Insurer provider that provides health insurance to your employees working on the county contract Invoices from Health Insurance Provider for June, July, August and September 2012. 	2/14/2013	<ul style="list-style-type: none"> Copy of agreement with BenefitMall to administer COBRA eligible group health plan Copy of application with Unum Life Insurance Company of America Excerpt of application with Blue Cross Blue Shield for group insurance Application to The Dental Network for dental plan Copy of Premium Statement from BenefitMall 	2/22/2013	Documentation provided did not include rates per health plan type provided to employee or premium cost per employee. (Attributes A, E and G)
<ul style="list-style-type: none"> Pay records (facilities Sheet, pay checks, and canceled checks) for the 19 additional employees who worked under the contract. 	2/14/2013	<ul style="list-style-type: none"> Pay check copies for all 19 employees Canceled check²² copies for 14 employees. <ul style="list-style-type: none"> One employee was noted as being paid in cash therefore no canceled check copy provided. Three employees only had a copy of bank transaction detail but no image of the canceled check was on print out One employee did not have any 	2/22/2013 3/13/2013	Documentation received was consistent with the type of documentation previously received. (Attributes A, E and F)

²² Per agreement with MCIA, CAMCO would provide recent canceled check copies, since CAMCO could not access check copies from the July –September timeframe without formal request to the their bank.

Requested Documentation and / or Information	Date Requested	Documents Received	Date Received	Comments Regarding Documentation and/or Information Requested and Received
		<ul style="list-style-type: none"> support for cancelled check Received outstanding additional 4 checks on 3/13/2013 		
<ul style="list-style-type: none"> Canceled checks copies not yet received for the sample of 12 employees from initial testing. 	2/14/2013	<ul style="list-style-type: none"> Received 32 of the 84 cancelled check copies requested. 	2/22/2013	<ul style="list-style-type: none"> Documentation received was consistent with what had been previously provided. (Attributes A, E and F)
<ul style="list-style-type: none"> Confirmation of deduction amount for the cell phone each employee uses. 	2/26/2013	<ul style="list-style-type: none"> Response provided via email from CAMCO: "Employees receive a deduction of \$0.85 per hour for the cell phone." 	2/26/2013	<ul style="list-style-type: none"> Documentation was not provided to support the amount quoted. (Attributes A, E and F)
<ul style="list-style-type: none"> Listing of covered employees with rate per employee. This listing should be in addition to the Premium Statement provided 	3/11/2013	<ul style="list-style-type: none"> Response provided via email from CAMCO: "the policy we (CAMCO) hold is a group insurance and they(provider) are not able to provide us (CAMCO) with a breakdown per employee; they (provider) recommend we (CAMCO) seek an insurance quote per individual so we (CAMCO) could compare" 	3/15/2013	<ul style="list-style-type: none"> No verifiable records were provided for review (Attributes A, E and G)
<ul style="list-style-type: none"> Pay Stubs 	5/8/13	<ul style="list-style-type: none"> Paycheck Stubs that detail the hours worked, gross hourly rate, gross pay, itemized deductions for all health benefits and cell phone, itemized tax deductions and net pay. 	5/14/13	<ul style="list-style-type: none"> New pay stub for 5 of the pay periods being tested were not provided (Attributes A, E and F)
<ul style="list-style-type: none"> Employee Health Insurance election forms 	5/8/13	<ul style="list-style-type: none"> Copies of the employee health insurance election from 	5/14/13	<ul style="list-style-type: none"> 19 of the 28 forms were provided (3 employees did not have health insurance deductions)

Requested Documentation and / or Information	Date Requested	Documents Received	Date Received	Comments Regarding Documentation and/or Information Requested and Received
				<ul style="list-style-type: none"> • 1 form had employee signature as required on the form • 18 from either had employee name printed or no employee name on the form signature line (Attributes A, E and G)

Appendix F – Excerpts from Wage Requirements Law and Contract

1. Wage Requirements Law

a. County Code, Sec. 11B-33A (c) (1)

1. *Each bid or proposal to provide services to the County must specify how the contractor and each subcontractor will comply with these wage requirements, and must include sufficient funds to meet these requirements. The Director, for good cause shown, may permit a bidder or proposer to provide this information after the bid or proposal if:*

- i. The information is provided before the time for evaluation of the bid or proposal and no later than contract award;*
- ii. The original bid or proposal does not change; and*
- iii. The Director approves the later submission in writing.*

b. County Code, Sec. 11B-33A (d) "Health insurance."

If a contractor or subcontractor commits in its bid or proposal to provide health insurance to any employee who provides services to the County, the contractor or subcontractor may:

- 1. certify in its bid or proposal the per-employee hourly cost of the employer's share of the premium for that insurance, and*
- 2. reduce the wage paid under subsection (e) to any employee covered by the insurance by all or part of the per-employee hourly cost of the employer's share of the premium.*

c. County Code, Sec. 11B-33A (h) "Enforcement" :

- 1. The Chief Administrative Officer must require each covered employer to:*

- a. (A) *certify that the employer and each subcontractor is aware of and will comply with the applicable wage requirements of this Section;*
 - b. (B) *keep and submit any records necessary to show compliance; and*
 - (C) *conspicuously post notices informing employees of the requirements of this Section, and send a copy of each such notice to the Chief Administrative Officer's designee.*
 - (2) *The Chief Administrative Officer must enforce this Section, perform random audits and any other audits necessary to do so, and investigate any complaint of a violation.*
 -
 - (5) *Each contract may specify that liquidated damages for any noncompliance with this Section includes the amount of any unpaid wages, with interest, and that the contractor is jointly and severally liable for any noncompliance by a subcontractor. In addition, each contract must specify that an aggrieved employee, as a third-party beneficiary, may by civil action enforce the payment of wages due under this Section and recover any unpaid wages with interest, a reasonable attorney's fee, and damages for any retaliation for asserting any right under this Section.*
2. Contract 1014627, Attachment C" Wage Requirements for Service Contract Addendum to the General Conditions of Contract between County and Contractor, item I and K

Item I *"The County may assess liquidated damages for any noncompliance by contractor with the Section 11B-33A wage requirements at the rate of 1% per day of total contract amount, or for a requirements contract the estimated annual contract value, for each day of the violation. This liquidated damages amount included the amount of an unpaid wages, with interested. In the event of a breach of contract under this paragraph, the Contractor must pay to the County liquidated damages noted above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a reach under this paragraph are difficult to ascertain, and that the liquidated damages provided for in this paragraph are fair*

and reasonable in estimated in the damages to the County resulting from a breach of this paragraph by Contractor. In additional, the contractor is jointly and severally liable for any noncompliance by a subcontractor, Furthermore, Contractor agrees that an aggrieved employee, as a third-party beneficiary, may by civil action enforce the payment of wages due under the Section 11B-33A wage requirements and recover from Contractor any unpaid wages with interest, a reasonable attorney's fees, and damages for an retaliation for asserting any right or claim under the 11B-33A wage requirements and recover form Contractor any unpaid wages with interest, a reasonable attorney's fee, and damages for any retaliation for asserting any right or claim under the 11B-33A wage requirements"

Item K "If the Contractor fails, upon request by the Director, to submit documentation demonstrating compliance with Section 11B-33A to the satisfaction of the Director, the Contractor is in breach of this contract. In the event of a breach of contract under this paragraph, upon request by the County, the Contractor must pay to the liquidated damages noted in the paragraph I. above, in addition to any other remedies available to the County. . Contractor and County acknowledge that damages that would result to the County as a result of a breach under this paragraph are difficult to ascertain, and that the liquidated damages provided for in this paragraph are fair and reasonable in estimated in the damages to the County resulting from a breach of this paragraph by Contractor."

3. *General Conditions of Contract Between County & Contractor:*

a. *Paragraph 3, Applicable Laws*

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local

laws, codes and regulations. For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

The prevailing wage law (County Code §11B-33C) applies to construction contracts. Specifically, under County law, a County financed construction contract is subject to the Montgomery County Code regarding compliance with the prevailing wage paid to construction workers, as established for the County by the Maryland State Commissioner of Labor and Industry. Additional information regarding the County's prevailing wage requirements is contained within this solicitation/contract (see the provision entitled "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor").

Furthermore, certain non-profit and governmental entities may purchase supplies and services, similar in scope of work and compensation amounts provided for in a County contract, using their own contract and procurement laws and regulations, pursuant to the Maryland State Finance and Procurement Article, Section 13-101, et. seq.

Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees, against the contractor or one of its subcontractors for retaliation in violation of that Section. (Effective June 28, 2010).

Contractor and all of its subcontractors must provide the same benefits to an employee with a domestic partner as provided to an employee with a spouse, in accordance with County Code §11B-33D. An aggrieved employee, is a third-party beneficiary who may, by civil action, recover the cash equivalent of any benefit denied in violation of §11B-33D or other compensable damages. (Effective January 1, 2011).

b. Paragraph 28, Termination for Default

The Director, Department of General Services, may terminate the contract in whole or in part, and from time to time, whenever the Director, Department of General Services, determines that the contractor is:

- (a) *defaulting in performance or is not complying with any provision of this contract;*
 - (b) *failing to make satisfactory progress in the prosecution of the contract; or*
 - (c) *endangering the performance of this contract.*
- 4. *The Director, Department of General Services, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.*
- 5. Montg. Co. Code § 1-18 "Enforcement" and §1-19, "Fines and Penalties".-
These County Code provisions address the issuance of notices of violation and civil citations, and provides for fines and penalties, in the event of a violation of the County Code, including the Wage Law. Included in these County Code provisions is the following language:

"If no penalty is specified for taking any action prohibited by County law or failing to take any action required by County law, that action or failure to act is a Class A violation."

Appendix G – Available Remedies for the County

Remedies are available related to a contractor's statutory violation or contract breach, resulting from a contractor's non-compliance with the Wage Law.

- The County has the option, in the exercise of its prosecutorial discretion, to seek a notice of violation or a civil citation, and a resulting fine as a Class A violation (\$500 initial offense; \$750 repeat offense) for a contractor's violation of the Wage Law. See Montg. Co. Code, §§ 1-18 & 1-19.
- The General Conditions, at paragraph 3, expressly require a contractor to comply with all applicable federal, State, and local laws, in general, and the Procurement law and regulations, in particular. Accordingly, any Wage Law violation by CAMCO also would constitute a contract breach, and permit the County to seek legal and equitable remedies for that breach against CAMCO, including seeking damages, seeking injunctive relief, or terminating the contract for default (General Conditions, para. 27).
- In accordance with the authority provided specifically in the Wage Law, at Montg. Co. Code, § 11B-33A (h) (5), the subject Contract, at General Conditions Attachment C, paragraph I., specifies that the County may assess liquidated damages of 1% of the contract value, per day, for each violation of the Wage Law and resulting breach of the contract by CAMCO. These liquidated damages include the amount of any unpaid wages, with interest that results from the noncompliance.
- As required by the Wage Law, the Contract specifies that "an aggrieved employee, as a third-party beneficiary, may by civil action enforce the payment of wages due under [the Wage Law] and recover any unpaid wages with interest, a reasonable attorney's fee, and damages for any retaliation for asserting a right under [the Wage Law]". See Appendix F for excerpts from the law and contract applicable to statutory or contractual violations that may result from CAMCO's non-compliance with the Wage Law.

Appendix H – MCDOT Response



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

MEMORANDUM

August 14, 2013

TO: Larry Dyckman, Manager, Office of Internal Audit

FROM: Arthur Holmes, Jr., Director, Department of Transportation *Arthur Holmes, Jr.*

SUBJECT: Formal Comments – CAMCO Wage Law Compliance Report

My staff and I have reviewed your preliminary draft report, dated May 22, 2013, of the review performed on several of our contracts.

The Department of Transportation thanks you for the opportunity to review and comment on this report. The department agrees with the factual content of the report and the recommendations.

Office of the Director

101 Monroe Street, 10th Floor • Rockville, Maryland 20850 • 240-777-7170 • 240-777-7178 FAX

www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

Appendix I – DGS Response



DEPARTMENT OF GENERAL SERVICES

Isiah Leggett
County Executive

David E. Dise
Director

MEMORANDUM

Aug 15, 2013

TO: Larry Dyckman, Office of Internal Audit
FROM: David Dise, Director
SUBJECT: Review draft report on CAMCO Wage Law Compliance

We have reviewed the draft report on CAMCO Wage Law Compliance and agree with the findings and the two recommendations addressed to DGS.

cc: Beryl Feinberg, DGS
Grace Denno, OBRC

Office of the Director
101 Monroe Street, 9th Floor • Rockville, Maryland 20850
www.montgomerycountymd.gov

Appendix J – CAMCO, LLC Response

CAMCO, LLC

Janitorial and Painting Services

08/12/13

Larry Dyckman
Manager, Office of Internal Audit
Montgomery County Government
101 Monroe Street, Room 626
Rockville, MD 20850

Dear Mr. Dyckman,

Our comments, per the Draft Report received in reference to Wage Compliance, are here within this formal letter:

- CAMCO as of June 1, 2012 started and continues to pay above the required Living Wage Rate in compliance with the Wage Requirements Act
 - CAMCO requests no Wage Law exemption since benefits are being paid by employees working 30+ hours on a week basis
 - CAMCO would have applied for reduction for health insurance under the Wage Law if CAMCO was to provide a share of the premium cost; CAMCO did not deemed this Wage Requirements Reduction Qualification necessary to apply for
 - CAMCO at no time have 31 approximate employees working under this contract; for four month holding an average of 27 employees
 - CAMCO Supervisors submits weekly time record reports; reconsolidated in one sheet to CAMCO administration; Original time cards are submitted by CAMCO Supervisors to MCDOT designee; CAMCO Administration reconsolidates all weekly time reports sheet into one Monthly Hours Database report and submits to MCDOT Designee for approval; MCDOT approves or rejects the report; if rejection is made CAMCO Administrative must make changes according to the information reported by MCDOT Designee;
 - CAMCO at no time have 31 approximate employees working under this contract; for four months holding an average of 27 employees
 - All information was provide per our understanding; After May 8, 2013 additional paystubs were provided detailing the Itemized deductions amount, but no feedback was receive or verification provided that all information for all employees under review was received
 - Provide the names of employees that still have missing information; an Initial report was request
 - CAMCO employees under this contract are being paid in accordance with Living Wage Law; employees are aware of all deductions and are in agreement and this should not be the county's concern; county concern is only that CAMCO pays the hours x the current living wage rate
 - CAMCO did provide the necessary group number and premium information; for premium breakdown please refer to paystub itemize detail; enough evidence was provide to prove the insurance premiums is in fact in existence; insurance contact information was provided, everything else insurance company maintains all information confidential
 - refer to paystubs for itemize deduction
 - correct CAMCO does not contribute to the health premiums expense, but CAMCO provided the accessibility to all benefits, just like it provides accessibility to loans, advance payments, child support, and more deductions it is of the employee decision
 - CAMCO does not employee 31 employees for this contract and only employee that have 30+ hours weekly are offered the benefits; forms were provide for employees that qualify
 - CAMCO provide information requested; 941 form is not only employees under this contract; 836 Quince Orchard Blvd, Suite T1 Gaithersburg, Maryland 20878
 - 7800 Airpark Road, Unit 23 Gaithersburg, Maryland 20879
- Office: 301-330-4595 Fax: 301-330-8136
julioarce@msn.com

CAMCO, LLC

Janitorial and Painting Services

- All benefits are under one premium; one premium for all employees under this contract
- CAMCO did not provide payment of premiums for June so that employees had to work first to pay for a full month of benefits; example this contract CAMCO has to work a full month to get pay 30 days later; we start June 01, 2013 to receive benefits starting July 01, 2013
- One premium to cover all employees under this contract
- 941 report unable to provide a breakdown since its a report base on CAMCO has a whole; each individual employee can go and request proof to agencies involved for proof of payment
- CAMCO agreed to provide the contact information do to the failure to believe the existence of the premium;
- need further explanation of Appendix B
- CAMCO did not see it necessary to elect the wage reduction for providing health insurance at the time; there is not a need to file for a wage reduction since day one CAMCO has and continues to pay the required living wage rate;
- furthermore did not deem it necessary do to that the employees are paying for there own benefits received
- CAMCO has paid in accordance with current Living wage rate; deductions are based on the benefits employees pay for; employee deductions are not limited to only health, dental, vision, life and cellular; additional deducts with agreement of employee may also include and not limited to advance payments, loans, rent, child support, and more
- CAMCO was unaware that this deductions were going to be the result of being not in compliance with the Wage Law; furthermore having the risk of paying back for deductions already payout to the receiving parties and beneficiaries
- information may be deemed inconsistent do to many factors such as absent days, late arrivals, early leave, and others
- all itemized deducts are available in paystubs, verification failure is not do to information not being provide but the inability to accept the information provided
- how can the county provide authorization when CAMCO is not provide a share of the health insurance; employees are paying for the premium and benefits; CAMCO felt there was no need to have the County's approval to deduct employees for their choice of deductions
- a need to calculate would be if CAMCO was indeed providing share of benefit, CAMCO does not provide share of benefit
- itemize deductions can be view with paystubs; in disagreement since CAMCO has been and continues to pay above the Living Wage Rate; Where is the Living Wage Law it states the County has to give the employee and employer approval for the deductions the employee request the employer to make in their paystub? Appendix F provides no detail clarification
- True and Correct, CAMCO did not provide the required request for exempting; CAMCO does provide the required commitment to provide employees the accessibility to all their necessary benefits resulting in wage deductions and further deductions
- CAMCO Supervisor submits original time cards to MCDOT and a reconcile weekly hour report to CAMCO Administration; CAMCO Administration then submits a monthly reconcile hour database report to MCDOT Designee for approval or rejection
- MCDOT designee verifies and if rejected provides CAMCO the changes needed to match the hours if hours are not match MCDOT designee does not provide the allocation report for invoice processing; CAMCO was never aware until now that MCDOT picks the lowest of the two reports, all this time it was our understanding that the process being used was Checks and Balances and that CAMCO was given fair opportunity to Invoice for hours rendered
- EMAIL conversations are available
- CAMCO is not requesting health insurance reduction in fact no reductions at all; CAMCO has and continues to pay in accordance with the Living Wage Rate; any and all deductions made by CAMCO were and are under employee agreement
- County's primary concern should be that employees are being paid the hours worked multiplied by Living Wage Rate; CAMCO is in compliance

836 Quince Orchard Blvd, Suite T1
Gaithersburg, Maryland 20878

2

Office: 301-330-4535 Fax: 301-330-8136
julioarce@msn.com

7800 Airpark Road, Unit 23
Gaithersburg, Maryland 20879

CAMCO, LLC

Janitorial and Painting Services

- as previously stated MCDOT requires CAMCO to match the monthly hour database report to their hours
- provide more detail information on the discrepancies; there are so many factors that must be taken into account
- County should not seek remedies against CAMCO for making deductions that are in agreement with employees' own requests and benefits, CAMCO since day one has paid above the Living Wage Rate and is in compliance; CAMCO has not requested any reduction of health insurance share of payment
- CAMCO has not underpaid employees; past and most current paystub can be provided as well as cancel checks; all employees working under this contract are more than aware of the current Living Wage Rate and can see with their own eyes paycheck after paycheck that their hours worked are being multiply by the most current living wage rate
- as of today, August 08, 2013 supervisor are being paid above the Living Wage Rate
- provide detail of S2-3 finding

CAMCO, LLC found the a necessity to have the accessibility to health and other benefits do to the high risk work environment that is presented at these particular County Facilities under Contract 1014627. Employees on a daily basis are not only expose to Facility Users, Visitors, but most risky of all they are expose to Bloodborne Pathogens. On a regular day (no special events), an employee is expose at a minimum of three times per day to this hazards' cleanups. As an effort to provide a safety and health protection on site and to maintain compliance with the Maryland Occupational Safety and Health Act, which states "Each employer shall furnish to each of his or her employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious harm to employees", CAMCO, LLC took the first initiative to provide first and recruiting employees the opportunity, training, and safety that previous contractors had neglected. CAMCO, LLC rehired more than 80% of employee previous working at this facilities and many of them having more than eight (8) years in-service at the same facility and, to their testimony, not one day of training.

Review the comments provide and advise if additional information will be required. I will be waiting to receive the information of which additional details were requested.

I can be directly contacted at 301-330-4555 or by email at julioarce@msn.com

Best regards,


Julio Arce
Owner

836 Quince Orchard Blvd, Suite T1
Gaithersburg, Maryland 20878

Office: 301-330-4555 Fax: 301-330-8136
julioarce@msn.com

7800 Airpark Road, Unit 23
Gaithersburg, Maryland 20879