

OFFICE OF THE INSPECTOR GENERAL

CITY OF BALTIMORE



Isabel Mercedes Cumming
Inspector General

Investigative Report Synopsis

OIG Case #23-0041-I

Issued: April 23, 2024



OFFICE OF THE INSPECTOR GENERAL
Isabel Mercedes Cumming, Inspector General
City Hall, Suite 635
100 N. Holliday Street
Baltimore, MD 21202



April 23, 2024

Dear Citizens of Baltimore City,

The mission of the Office of the Inspector General (OIG) is to promote accountability, efficiency, and integrity in City government, as well as to investigate complaints of fraud, financial waste, and abuse. The following synopsis is a condensed version of the full report provided to City management officials and does not contain all investigative information.

In May 2023, the OIG received a complaint alleging that the City of Baltimore (City) owed a Department of Transportation (DOT) contractor (Contractor) more than \$1 million in retainage payments for work performed during at least 16 construction projects that occurred between 2017 and 2023. The complainant alleged the City's delay in remitting these payments violated State of Maryland law.

BACKGROUND

Retainage is the withholding of a portion of the final payment to a contractor for a specified period to ensure the contractor or subcontractor has finished a construction project entirely and correctly. Under Maryland law, State Finance and Procurement §17-110, unless there is a dispute, retainage should be released 120 days after a job is completed.

DOT's Transportation Engineering and Construction (TEC) Division manages the engineering design and construction administration of City capital improvement projects. Separately, DOT's Contract Administration/Civil Rights Division (Contract Administration) processes contractual documents for advertisement, awards, payments, extra work orders, construction audits, and minority participation compliance. Contract Administration also completes closeout audits of TEC's projects before final retainage payments are released. DOT uses Primavera Contract Management 14.1 (CM-14), an electronic contract management system, to manage construction projects, costs, and documents. DOT is replacing CM-14 with Unifier in 2024.

OIG INVESTIGATION

In May 2023, the Contractor wrote to Contract Administration that the City owed the Contractor retainage payments for 17 contracts totaling \$1,030,48.52. The OIG reviewed payment records for 16 of the 17 contracts listed in the complaint letter because, at the time of the investigation, the 17th project was still an active contract. Payment records showed that, at the time of the complaint, the City had not paid retainage for the 16 completed projects and owed the Contractor \$1,008,102.23. During the OIG's investigation, between July and December 2023, the City paid the Contractor \$762,473.31 in retainage payments. As of February 2024, payments for the remaining contracts were being processed.

REPORT FRAUD, WASTE AND ABUSE

HOTLINE: 443-984-3476/800-417-0430 EMAIL: OIG@BALTIMORECITY.GOV WEBSITE: OIG.BALTIMORECITY.GOV

This public synopsis is only a summary of a more comprehensive report of investigation submitted to the appropriate City management official

The OIG calculated the number of days between the projects' final inspection dates and payment dates. The shortest interval was 233 days (just under 8 months), while the longest was 1,677 days (approximately 4.5 years). The City's Law Department confirmed that Maryland State Finance and Procurement Section 17-110 applies to these contracts, and late retainage is a violation.

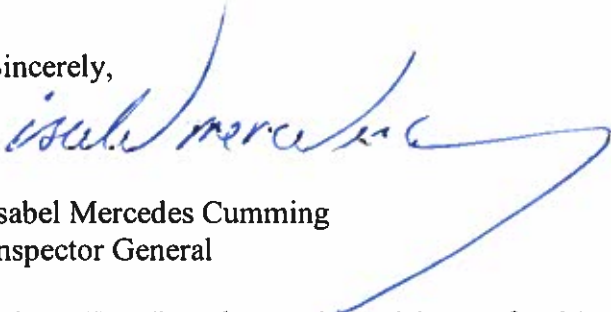
The investigation also identified inconsistencies in contract documentation and significant delays in the contract closeout processes within TEC and Contract Administration. Multiple employees described staffing issues, the underutilization of CM-14, and reliance on hard-copy documents and manually updated spreadsheets.

INVESTIGATIVE FINDINGS

The OIG review substantiated the allegations that, as of the time of the complaint, the City owed the Contractor \$1,008,102.23 in retainage for completed projects. The investigation found inconsistencies in contract documentation and significant delays in the contract closeout process within DOT. The OIG found that the City remitted \$762,473.31 in contracts between July and December 2023. DOT's response confirmed 8 contracts remain to be closed out. Those payments came well after the 120-day deadline by which the City must remit retainage once a contract is closed out.

The OIG recommended increased use of CM-14 throughout the life course of construction projects so that Contract Administration can conduct closeout audits and release retainage payments to contractors more quickly. DOT's response stated that instead of having administrators extract information from paper documents, the department will utilize electronic reports from CM-14.

Sincerely,



Isabel Mercedes Cumming
Inspector General

CC: Hon. Brandon M. Scott, Mayor of Baltimore City
Hon. Nick Mosby, Baltimore City Council President
Hon. Bill Henry, Baltimore City Comptroller
Honorable Members of the Baltimore City Council
Hon. Ebony Thompson, Acting Baltimore City Solicitor

REPORT FRAUD, WASTE AND ABUSE

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**Department of Transportation
Response
Case # 23-0041-I**

CITY OF BALTIMORE
BRANDON M. SCOTT, Mayor



DEPARTMENT OF TRANSPORTATION

Corren Johnson, Director
417 E. Fayette Street, 5th Floor
Baltimore, Maryland 21202

March 20, 2024

Inspector General Isabel Cumming
Baltimore City Office of the Inspector General
100 N. Holliday Street, Suite 635
Baltimore, MD 21202

RE: OIG CASE NO. 23-0041-I- [REDACTED]

Dear Inspector General Cumming:

This serves as the Department of Transportation's (DOT) official response to the above referenced case. Following a thorough review of the report, DOT's Contract Administration Division, in collaboration with the Transportation Engineering and Construction Division, investigated the complaint.

DOT evaluated the status of the 16 contracts examined in the report. We have determined that 8 out of 16 have been closed with all retainages released. The remaining 8 contracts are in various stages of the close out process, including release of retainage. These have a retainage amount available for release valued at \$236,340.45. We will follow up with the contractor and provide a timeline for the release of the remaining funds.

The Department has been working on staffing improvements and seeking ways to more streamline operations. DOT hired a new Contract Administrator in August 2023 and recently assigned her as the designated Contract Administrator responsible for processing requests for release of retainage. This Administrator will be tracking and reporting the processing times to the Chief of Contract Administration monthly. Additionally, DOT will be leveraging electronic reports out of CM14, with added modifications, as opposed to administrators having to extract information from paper documents. Finally, DOT has recruitment efforts underway to hire additional staff to better manage the workload.

We sincerely appreciate your diligence in bringing this matter to our attention. Should you have any questions or require further information, please do not hesitate to reach out to either myself or Mrs. Laetitia Gardener, Deputy Director for Administration, at Laetitia.Gardener@baltimorecity.gov. We thank you for your continued support and we remain committed to ensuring the utmost compliance with the City's policies and procedures.

Sincerely,

Corren Johnson
Director

cc: Brandon M. Scott, Mayor
Mavin James, Chief of Staff
Faith Leach, Chief Administrative Officer
Simone Johnson, Deputy City Administrator
Ebony Thompson, City Solicitor
Laetitia Gardner, Deputy Director of Administration, DOT
Veobia Akilo, Chief of Staff, DOT
Brenda Simmons, Chief of Contract Administration, DOT