

**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 17<sup>th</sup> 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](mailto:OIG@BALTIMORECITY.GOV) WEBSITE: [OIG.BALTIMORECITY.GOV](http://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.

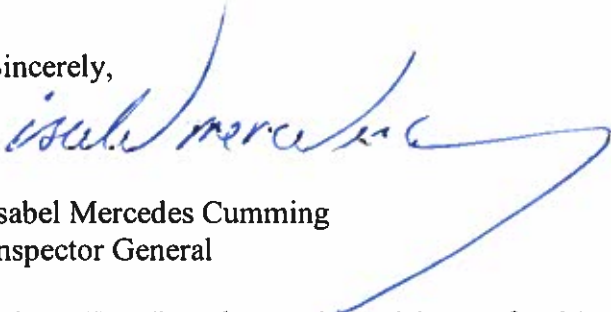
The investigation also identified inconsistencies in contract documentation and significant delays in the contract closeout processes within TEC and Contract Administration. Multiple employees described staffing issues, the underutilization of CM-14, and reliance on hard-copy documents and manually updated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

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*