

OFFICE OF THE INSPECTOR GENERAL
CITY OF BALTIMORE



Isabel Mercedes Cumming
Inspector General

Investigative
Report Synopsis

OIG Case # 23-0032-I

Issued: October 24, 2023



OFFICE OF THE INSPECTOR GENERAL
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City Hall, Suite 635
100 N. Holliday Street
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October 24, 2023

Dear Citizens of Baltimore City,

The mission of the Office of the Inspector General (OIG) is to promote accountability, efficiency, and integrity in the City of Baltimore (City) government, as well as to investigate complaints of fraud, financial waste, and abuse. On February 22, 2023, the Office of the Inspector General (OIG) received a complaint from an independent company (Company 1) alleging the City of Baltimore (City) failed to invoice them for 152 Right-of-Way (ROW) permits between 2019 and 2023, totaling \$245,365. The investigation also revealed permit invoicing issues for a second company (Company 2) in addition to information regarding the City's collection process for ROW permits and the City's statute of limitations to pursue civil actions to collect debts under State of Maryland Law.

BACKGROUND

The Department of Transportation's (DOT) ROW permit division is responsible for issuing Temporary Use of ROW Permits. ROW permits are required for curb modifications, access to pull wires, cranes, storage containers, closures, hauling, scaffolding, street and utility cuts, and other uses. DOT sends a monthly list of the approved ROW permits to DOF for customers to be invoiced. Department of Finance's (DOF) Bureau of Accounting and Payroll Services (BAPS) division then creates invoices from DOT's monthly ROW list and sends bills to the contractors approved for the ROW permit.

INVESTIGATION

Company 1's ROW Permit Invoices

An OIG investigation from October 2021, summarized as Report #21-0046-I (Prior OIG Investigation) found that the City failed to invoice Company 1 for ROW permits for an uncollected amount of \$46,660. On February 22, 2023, Company 1 provided DOT and the OIG with 152 ROW permit numbers for permits issued since 2019 that they alleged the City had failed to invoice. These included permits noted in the Prior OIG Investigation.

The investigation found evidence to support that Company 1 had not received invoices from the City amounting to \$245,365. A review of Company 1's ROW permit applications showed numerous permits listed Company 1's address but not its own name. The name on the majority of the ROW permit applications was that of the third-party contractor. A BAPS supervisor (BAPS Sup.) explained that BAPS would ideally bill the company listed as the applicant on the ROW permit. After the interview, the BAPS Sup. could only locate two permits billed to Company 1 and stated the BAPS team did not appear to be reviewing the addresses when billing. Regarding possible reasons for the lack of invoices received by Company 1, the BAPS Sup. attributed it to: (1) the City transitioning to Workday, the City's new invoicing software system (2) that invoices may have been sent to the other contractors listed on the permit, and (3) that this may be an effect of short-staffing within BAPS.

REPORT FRAUD, WASTE AND ABUSE

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

After the investigation began, the OIG found numerous invoices created for Company 1 permits in April 2023, with some subsequently paid. The OIG followed up with Company 1 in August 2023, and they confirmed receipt of numerous bills but claimed approximately 64 were still outstanding, totaling \$131,203.00.

Company 2's Permit Invoices

While conducting this investigation, information was received that Company 2 had a \$3,906,779 balance for permit fees in April 2023, including blanket permits.¹ BAPS and DOT have since worked to have \$3,000,000 from blanket permits for Company 2 resolved.² As of September 5, 2023, a Workday invoice report showed that Company 2 had an outstanding balance of \$1,367,654.50 for permits. In addition to the outstanding permits, the September 5th report also listed Company 2's outstanding balances for Miss Utility bills of \$521,150.29.

The OIG learned that Company 2 had required invoices to be submitted by email since 2014, but BAPS had been sending bills to Company 2's physical mailing addresses listed in the City's Workday system. Communications from November 2022 to February 2023 showed Company 2 provided BAPS with the invoicing instructions for ROW permits and Miss Utility³ bills. In March 2023, the BAPS Sup. notified DOF leadership of Company 2's compliance requirements and that significant research and staff would be needed to collect on previously billed permits.

Additionally, Company 2 explained it has not received a new blanket permit with updated language since 2019, only monthly extensions. A supervisor from Company 2 noted that Company 2 had made multiple attempts to meet with City employees to draft updated language for the blanket permit since the 2019 permit. DOT's ROW Chief asserted that the City is actively working to update the permit language to create new blanket permits for Company 2. According to the DOT ROW Chief, they are tasked with updating the blanket permit language because some policies have changed.

Three-Year Statute of Limitations & ROW Permit Collection Process

According to Maryland Code, Courts and Judicial Proceedings §5-101, a legal civil action to collect a debt shall be filed within three years from the date it accrues unless another provision provides a different period within which an action shall be commenced. DOF's Bureau of Revenue Collections (BRC) clarified that the City can still bill the customer and accept payment but cannot sue due to the delinquency falling outside the three years.

The OIG learned that DOF cited this three-year statute in a presentation as justification to write-off suggested bad debt of various City-wide invoices when the City transitioned from its prior invoicing system to Workday. The proposal displayed balances from 2005 to 2017 totaling \$44,714,886 that were beyond the three-year collectible period. A witness with knowledge of the proposal and information reviewed during the investigation indicated that DOF moved forward with writing credits toward these

¹ Blanket permits are authorizations that allow an applicant to take certain actions at a specific location without first applying for an individual permit.

² According to BAPS, three of these blanket permit invoices were not necessary and were cancelled.

³ The Miss Utility notification center is the approved one-call notification center to prevent damage to underground infrastructure.

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older debts.

A Workday invoice report shows that at the time of this report, unpaid permits from January 2017 to August 2020 total \$1,372,510.75. A BRC supervisor (BRC Sup.) stated that BRC'S Suit Filing Division stopped filing suits for ROW permits because they frequently found the balance was already paid. According to the BRC Sup., this may occur when DOT accepts in-person payments from ROW applicants. According to a DOT supervisor (DOT Sup.), before the COVID-19 pandemic, the policy was that to obtain a permit, an applicant would have to pay in person before a permit was issued. However, the DOT Sup. said DOT has been sending the ROW permit information to BAPS for invoicing and only recently began seeing applicants in person.

Recommendations

The OIG recommended BAPS and DOT continue coordinating with Company 1 to ensure all invoices are timely provided and paid. Continued communication with Company 2 will also assist with resolving billing issues and finalizing new blanket permits. Additionally, the OIG suggests that BAPS, DOT, and BRC share information related to each department's responsibilities and work to develop documented procedures to ensure a consistent approach for ROW permit invoicing. Lastly, the OIG urges the collection process, especially for ROW permits, to be carefully monitored so monies are not lost due to the statute of limitations.

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