

**OFFICE OF THE INSPECTOR GENERAL
CITY OF BALTIMORE**



**Isabel Mercedes Cumming
Inspector General**

**Investigative
Report Synopsis**

**Addendum to OIG
Case # 19-0084-I**

Issued: March 19, 2020



OFFICE OF THE INSPECTOR GENERAL
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City Hall, Suite 635
100 N. Holliday Street
Baltimore, MD 21202



March 19, 2020

Dear Citizens of Baltimore City,

On January 2, 2020, the Office of the Inspector General (OIG) submitted a Report of Investigation regarding Comptroller Joan Pratt's vote in favor of the sale of 15 City of Baltimore (City) lots to Bethel African Methodist Episcopal (AME) Church during the November 1, 2017 Board of Estimates (BOE) meeting. It was concluded that because of Pratt's position as a trustee within Bethel AME and the inclusion of the church on her List of Abstentions (LOA), her vote in favor of the sale was a conflict of interest. During Pratt's interview with the OIG on November 4, 2019, and in public statements, she said her vote on the Bethel AME sale was an administrative oversight and not intentional, but nevertheless agreed it was a conflict of interest.

During the investigation into the Bethel AME sale, the OIG learned that the Lead BOE Technician (Lead Tech) maintained a list of names identified by Pratt as organizations and individuals from which she would need to abstain, if such an organization or person had any business before the BOE.¹ Pratt told the OIG that in the days prior to a BOE meeting, she combs through the agenda page-by-page to identify items from which she should recuse herself from voting on. Pratt typically declares her abstentions to staff during regularly scheduled Monday meetings and those abstentions are announced by the Deputy Comptroller during the Wednesday meeting of the BOE.

Additionally, Pratt told the OIG she considers her abstentions to be: anybody she has personally performed work for, past or present; anybody who has received tax work from her business, Joan M. Pratt, CPA & Associates; and any trustee position held within an organization, such as her position in Bethel AME.

When interviewed by the OIG, Pratt stated that members of her staff were assigned the duty of double-checking the BOE agendas against the LOA to catch those items Pratt may have missed during the Monday meeting in which Pratt declared her abstentions. According to the Lead Tech, and verified by the OIG, the last LOA dated for a specific BOE meeting was on April 17, 2019.

Since the week-to-week LOA stopped being compiled, the Lead Tech now requests that BOE members submit weekly abstentions to the Office of the Comptroller based upon their own review of the agenda for each week. Currently, there is no publicly available abstention list maintained for BOE members.

Initially, the Lead Tech only provided the OIG with one LOA they said was in use for all of 2017.² A separate LOA dated for the April 17, 2019 meeting of the BOE was provided to the OIG by the Lead Tech after the release of the initial Report of Investigation (**Exhibit 1**). Additionally, the OIG was able to obtain each LOA compiled by the Office of the Comptroller for all BOE meetings from 2016 to 2019. Having procured the various LOAs, the OIG went back to review Pratt's BOE voting history and submitted its findings as an addendum to the original Report of Investigation.

¹ The list also included the names of individuals and organizations that were abstentions for all five voting members of the BOE: Mayor, Comptroller, City Council President, City Solicitor, and Director of the Department of Public Works.

² The initial LOA provided to the OIG was included in Exhibit 4 of the Report of Investigation.

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Failures to Abstain

The OIG reviewed BOE agendas, minutes, video recordings, and corresponding LOA's from December 7, 2016 to October 30, 2019.³ The OIG found 30 different items, involving 10 different organizations, that Pratt did not recuse herself from voting on. All 30 items included organizations whose names were on Pratt's LOA for the same dates the organizations had business before the BOE (**Exhibits 2 and 3**).⁴

The OIG found that Pratt voted to approve more than \$48 million-worth of contracts, grants, and vendor prequalification amounts involving organizations and individuals from which she self-identified as needing to abstain from.⁵ The OIG placed each of the 30 different BOE items Pratt voted on into four categories: prequalification, MBE/WBE subcontractors, subgrantees, and prime contractors. The breakdown of the \$48 million into the four categories is as follows:

- One contractor was approved for **prequalification** of more than **\$32.7 million**.
- Three **MBE/WBE subcontractors** were approved to receive more than **\$5.8 million** as a percentage of work performed for prime contractors not on the LOA.
- Five organizations were awarded more than **\$5.5 million** as **subgrantees** of grants received by the City from either the United States federal government, Maryland State government, or private entities.
- Two companies were directly awarded almost **\$3.9 million** as **prime contractors**.

Prime Contractor

When the City awards various types of contracts, a "prime" contractor is chosen. The prime is the vendor holding the contract with the City and who is ultimately responsible for fulfilling the obligations of the contract. The City can award a contract to multiple primes and each prime is typically held to the same contract terms. However, each prime is not necessarily given the same volume of work or paid the same rate as the other primes on the same contract. If stipulated in the contract, a prime can subcontract a certain amount of the work.

Within the OIG's review period, it was revealed that on December 14, 2016, Pratt voted to award more than \$966,000 to Chesapeake Parking Associates, a general partnership⁶ between Banks Contracting Company (Banks Contracting) and Central Parking System of Maryland, as the prime contractor for the operation of two City-owned parking garages (**Exhibit 4**). The OIG reviewed the BOE agenda from December 14, 2016 and found that it clearly listed Banks Contracting as a party to the award. The OIG also found that Pratt's corresponding LOA made for the December 14th meeting listed Banks Contracting on it. Pratt did not recuse herself from voting to award the contract to Banks Contracting.

Grant Recipients

The City receives grant funding from a variety of sources including from the United States Federal government, Maryland State government, and private entities. Upon the City receiving grant funds from the state government, federal government, or private grantors, the City can award the funds to a third-party entity as a

³ The OIG did not conduct any interviews for this addendum. All interviews were done related to the initial Report of Investigation for case #19-0084-I.

⁴ There is one LOA dated for July 18, 2017, however, the actual BOE date is July 19, 2017.

⁵ It should be noted that in its original Report of Investigation to Pratt, the OIG drew attention to the entire award amounts listed in the BOE agenda and minutes for the contracts in question. This total contract award amount was approximately \$85.5 million. The difference of approximately \$37.5 million was awarded to prime contractors that did not appear on Pratt's LOA. However, those same prime contractors intended to subcontract to MBE/WBE's that were on Pratt's LOA.

⁶ A general partnership is a business arrangement by which two or more individuals agree to share in all assets, profits, and financial and legal liabilities of a jointly-owned business.

“subgrantee.” There are various grant programs run by City agencies to which an outside organization or individual can apply to receive funding. Grant funds do not need to be paid back by the subgrantee; however, they must be compliant with the rules of spending established by the grant agreement.

The OIG found that from December 7, 2016 to October 30, 2019, Pratt voted to provide more than \$5.5 million in grant funding to four (4) different non-profit organizations: Associated Black Charities, Union Baptist Church School, Legal Aid Bureau, and Coppin Heights Community Development Corporation. In addition, Pratt voted to give \$55,000 in federal and private grant funds to The House of Restoration, a for-profit child-care center. Each of these organizations appeared on Pratt’s LOA on the corresponding date they were approved for funding by the BOE.

Prequalification Process

According to the Department of Public Works’ website, the Office of Boards and Commissions (OBC) manages the prequalification process. Prequalification in approved categories is required for all construction contractors and design consultants seeking to perform work of \$50,000 or greater on City construction projects. Prime contractors need to be prequalified in order to bid on construction projects. Subcontractors also need to be prequalified prior to commencing any work. Contractor prequalification’s are valid for 2 years; however, a contractor’s most recent financial statement must be submitted annually prior to the anniversary date in order to maintain a valid status. Contractors must “renew” their prequalification status by submitting a new application every two years.

To become prequalified, consultants and contractors must submit completed applications to be reviewed by OBC to ensure the applicants have the technical capability and financial capacity to perform satisfactory work for the City. The contractor will be evaluated based upon the financial statements submitted to the City, and OBC will assign a “Work Capacity Rating” (WCR), which is the maximum value of total work capacity (public or private) OBC will allow. The WCR is then sent to the BOE for approval, and upon that approval, a prime contractor may be permitted to bid for any single contract having a total value not exceeding the contractor’s assigned capacity rating.

A prime contractor shall not be permitted to bid for a contract having a value in excess of said capacity rating, unless the BOE approves an increase in the WCR or if a specific guarantee of the contractor’s obligations in connection with the particular contract is furnished by the contractor’s guarantor. Upon selection of a prequalified vendor by a City agency, the contract must be approved by the BOE before work begins, unless it is an emergency procurement and then BOE approval is done as soon as possible after work has commenced.

The OIG found that on March 8, 2017, Pratt voted to prequalify American Contracting & Environmental Services (American Contracting) up to \$25.7 million, and, on May 10, 2017, she voted to increase the prequalification amount by more than \$6.9 million. These prequalification approvals gave American Contracting the ability to bid on City contracts worth up to \$32.7 million.

The OIG also found that on August 23, 2017, shortly after approving the increase in prequalification, Pratt voted to approve an award of \$2.9 million to American Contracting for an “Extra Work Order” (EWO) (**Exhibit 5**). It also seemed that there were not enough funds to pay for the \$2.9 million EWO, so on January 31, 2018, the BOE approved a transfer of unused funds to cover the EWO expenses, another item Pratt did not abstain from. The review revealed that Pratt’s LOA for all four BOE dates in question listed American Contracting.

MBE/WBE

Prime contractors often have MBE/WBE goals that they must meet to fulfill the terms of the contract. The City’s Minority and Women’s Business Opportunity Office sets certain percentage goals for each prime to

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meet. For example, a prime contractor may be awarded a \$50,000 contract with the goal to subcontract 5% of the work, or \$2,500, to an MBE company and 5%, or \$2,500, of the work to a WBE company. If a contract is awarded to multiple primes, then each prime must meet their own individual MBE/WBE goals. Although the percentage goals for MBE/WBE subcontracted work may be equal among multiple primes on the same contract, not every prime receives the same volume of work from the City and thus the amount of work subcontracted by a prime contractor to their selected MBE/WBE's is not always uniform.

The OIG review found that Pratt voted in favor of awarding 10 City contracts to prime contractors that planned to subcontract work to an MBE/WBE company on Pratt's LOA. Pratt voted to approve contracts to primes that intended to subcontract to Horton Mechanical Contractors, Economic International Construction Company, and Ball & Breckenridge Trucking. The MBE/WBE's that were to be utilized by each prime contractor were clearly listed on the BOE agendas, as were the percentages of work each MBE/WBE would receive from the prime contractors. However, despite this information, and despite each company being listed on Pratt's LOA, she voted to approve contracts to these businesses. It should be noted that the prime contractors that were to send work to the subcontractors did not appear on Pratt's LOA; however, the MBE/WBE's were on the LOA and stood to receive anywhere from 1.41% to 27% of the total amount awarded to the prime, worth more than \$5.8 million.

Inconsistencies and Irregularities

The OIG discovered multiple inconsistencies in Pratt's voting history related to the organizations on her LOA. Pratt's decisions to abstain from BOE items that involved organizations on her LOA were variable in that one week she abstained, then a few weeks or months later, she did not abstain. The OIG also found irregularities on the LOA in that some organizations appeared on the LOA, were removed, then reappeared later. Table 1 details the inconsistencies and irregularities found by the OIG.

Table 1: Inconsistencies in Pratt's LOA and BOE Voting history

BOE Date	Organization Name	Was Organization on LOA?	Did Pratt Abstain?
5/10/2017	American Contracting & Environmental Services	YES	NO
5/31/2017	American Contracting & Environmental Services	NO	NO
8/23/2017	American Contracting & Environmental Services	YES	NO
3/14/2018	American Contracting & Environmental Services	NO	NO
7/25/2018	American Contracting & Environmental Services	NO	YES
10/31/2018	American Contracting & Environmental Services	NO	NO
10/24/2018	Ball & Breckenridge Trucking	YES	YES
11/14/2018	Ball & Breckenridge Trucking	YES	NO
12/14/2016	Banks Contracting Company	YES	NO
12/6/2017	Banks Contracting Company	NO	NO
1/23/2019	Banks Contracting Company	NO	YES
5/15/2019	Coppin Heights Community Development Corporation	YES*	YES
9/18/2019	Coppin Heights Community Development Corporation	YES*	NO
10/4/2017	Economic International Construction Company	YES	YES
11/1/2017	Economic International Construction Company	YES	NO
5/16/2018	Economic International Construction Company	YES	NO
7/11/2018	Economic International Construction Company	YES	NO
8/29/2018	Economic International Construction Company	YES	YES
12/21/2016	Horton Mechanical Contractors	YES	YES

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BOE Date	Organization Name	Was Organization on LOA?	Did Pratt Abstain?
12/21/2016	Horton Mechanical Contractors	YES	NO
4/26/2017	Horton Mechanical Contractors	YES	NO
5/10/2017	Horton Mechanical Contractors	YES	YES
5/31/2017	Horton Mechanical Contractors	YES	NO
11/1/2017	Horton Mechanical Contractors	NO	NO
11/8/2017	Horton Mechanical Contractors	NO	NO
2/14/2018	Horton Mechanical Contractors	YES	NO
4/18/2018	Horton Mechanical Contractors	YES	YES
8/23/2017	The House of Restoration	YES	YES
9/12/2018	The House of Restoration	YES	NO
10/30/2019	The House of Restoration	YES*	YES
4/26/2017	Union Baptist Church School	YES	YES
6/7/2017	Union Baptist Church School	YES	NO
2/14/2018	Union Baptist Church School	YES	YES
4/4/2018	Union Baptist Church School	YES	NO

Note: All items marked with "YES*" were checked against the last known LOA from April 17, 2019

As demonstrated in Table 1, there did not seem to be a clear process by which the Comptroller ascertained whether she needed to abstain and it was unclear why certain organizations appeared on the LOA, only to be removed, then added back again.

For example, American Contracting appeared on the LOA for the May 10, 2017 BOE meeting, and Pratt did not abstain. The very same month, American Contracting is removed from the LOA for the May 31st meeting, only to return on the LOA on August 23rd, and Pratt did not abstain during either meeting. Then, on July 25, 2018, Pratt abstained from an item involving American Contracting when the organization did not even appear on the LOA for the July 25th meeting.

Additionally, as detailed earlier in this report, Pratt voted to approve American Contracting's prequalification at a time when the company was on her LOA. However, the OIG discovered instances where Pratt did abstain from voting to approve a vendor prequalification for a vendor on the LOA. The OIG found that in 2017 and 2019, Pratt twice abstained when the BOE considered the approval of Economic International Construction Company's prequalification. Economic Construction appeared on Pratt's LOA for the October 4, 2017 BOE meeting and on her last known LOA for the April 17, 2019 BOE meeting. The OIG found Pratt's decisions on whether to abstain from vendors that sought prequalification approval to be inconsistent.

Inconsistencies were also seen with Horton Mechanical Contractors (Horton Mechanical) and Banks Contracting. Both companies appeared on Pratt's LOA, then were removed. The OIG found that in 2016, Pratt did not abstain from Banks Contracting while the company was on the LOA. Then, in 2017, Banks Contracting was removed from the LOA and Pratt also did not abstain. Finally, in 2019, Pratt abstained from a BOE item that involved Banks Contracting when the company was not on the LOA at that time.

As detailed in Table 1, two different items that involved Horton Mechanical were on the BOE agenda for the December 21, 2016 meeting. The OIG reviewed the LOA for the December 21st meeting and found that the item Pratt abstained from was marked with the BOE agenda page and item numbers which appeared to indicate that Pratt needed to abstain; however, the agenda page number and item number related to the second item from which Pratt did not abstain, is not marked on the LOA.

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Furthermore, Horton Mechanical did not appear on Pratt's LOA for the November 8, 2017 BOE meeting, during which Pratt voted to approve the company for a prequalification of \$8 million. However, Horton Mechanical was listed on the last known LOA from April 17, 2019. Since then, Pratt voted to approve an increase to Horton Mechanical's prequalification amount to \$23.8 million on November 27, 2019.

Horton Mechanical initially appeared on the LOA in late 2016, was removed in late 2017, and then reappeared in early 2018. Throughout this time period, Pratt's voting history on Horton Mechanical was inconsistent, regardless of whether the company appeared on the LOA. Pratt's decision to recuse herself or not recuse herself from both Horton Mechanical and Banks Contracting appeared to be unpredictable.

Conclusion

The OIG investigation revealed that from December 2016 to October 2019, Comptroller Joan Pratt voted to approve more than \$48 million-worth of contracts, grants, and vendor prequalification's to both for-profit companies and non-profit organizations that she self-identified as needing to abstain from.

The OIG obtained each LOA from December 7, 2016 to April 17, 2019 and identified 10 different organizations that appeared on Pratt's LOA for the same date they had business before the BOE. The OIG found that Pratt voted to award 30 different contracts, grants, and prequalification's that involved those same 10 organizations (LOAs attached as Exhibit 3).

Moreover, the OIG found multiple inconsistencies and irregularities in Pratt's voting history with the 10 organizations that were identified. There were several instances of organizations that appeared on the LOA being removed, then added back on. In addition, there are times Pratt did not abstain from BOE items when the organization appeared on the LOA, and other times Pratt abstained after the same organization was removed from the LOA. The inconsistency and irregularity of organizations listed on Pratt's LOA, and her decision whether to abstain, do not seem to follow a pattern.

The OIG learned through its initial investigation regarding Pratt's vote to approve the Bethel AME sale that the LOA was maintained by the Office of the Comptroller to ensure that if any of the names from the LOA appeared on the BOE agenda, Pratt would abstain. Pratt told the OIG she believes she should abstain from BOE items involving individuals and organizations her tax firm performed work for, past or present; any work she personally performed for an individual or organization; or any trustee position she holds in outside organizations.

During the initial OIG investigation, Pratt claimed that she goes through every BOE agenda page-by-page and declares to her staff those items from which she will abstain. Pratt told the OIG that her vote to approve the Bethel AME sale was a mistake and that her staff should have caught the mistake. However, the OIG has since found 30 additional instances of her failure to abstain in a time span of less than three-years.

The OIG originally requested a response from the Comptroller for March 10, 2020. The Comptroller then asked for an additional two-week extension to March 25, 2020. The OIG extended the response time to March 18, 2020. On March 18, the OIG received a request for an additional 17-day extension by the Comptroller's attorney, William Martin. The OIG denied the second request for an extension. See attached correspondence (Exhibit 6).

All OIG exhibits are attached to this synopsis.

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EXHIBITS

1. LOA for April 17, 2019
2. Spreadsheet detailing 30 BOE items
3. Corresponding LOA's for each BOE item on spreadsheet
4. December 14, 2016 BOE minutes for Banks Contracting
5. August 23, 2017 BOE minutes for American Contracting
6. Correspondence regarding Comptroller's extension request

Sincerely,



Isabel Mercedes Cumming, Inspector General
Office of the Inspector General

Cc: Hon. Joan M. Pratt, Comptroller
Hon. Bernard C. "Jack" Young, Mayor
Hon. Brandon Scott, City Council President
Honorable Members of the City Council
Dana P. Moore, Acting City Solicitor

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