

OFFICE OF THE INSPECTOR GENERAL CITY OF BALTIMORE



Isabel Mercedes Cumming
Inspector General

Investigative Report Synopsis

OIG Case # 20-0058-I

Issued: February 24, 2021



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



February 24, 2021

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. At times the lack of transparency, effective communication, efficient record keeping and agency auditing in the Baltimore City government could lead to financial waste.

EXECUTIVE SUMMARY

On May 1, 2020, the Office of the Inspector General (OIG) received a complaint alleging the final disbursement of \$50,000 awarded to the Urban Heat Island Mitigation program¹ by the Maryland Public Service Commission (PSC) could not be accounted for and was not used for its intended purpose. This caused the OIG to investigate additional City programs using PSC funding.

On November 8, 2012, the PSC awarded \$113.5 million from the Customer Investment Fund (CIF)² to support programs serving customers and communities in the Baltimore Gas and Electric Company service territory. The PSC selected four City agencies that oversee eight approved programs to receive CIF funding. The four City agencies were awarded \$52,876,304 to assist low-income households and communities with energy efficiency solutions, via the eight programs. The initial CIF award period established by the PSC was from the beginning of fiscal year 2014 through the end of 2017.

The OIG's analysis of the PSC reporting on the CIF funding revealed that a portion of the final disbursements scheduled for the end of fiscal year 2017 were delayed due to limited funding. As a result, the PSC shifted the delayed disbursements into fiscal year 2018. The OIG consulted with the PSC and confirmed that the City was affected by the delay and received a final lump sum disbursement of \$7,556,595.36 in the first quarter of fiscal year 2018. The OIG also confirmed with the PSC that \$50,000 of the delayed final disbursement was designated for the Urban Heat Island Mitigation program. The OIG confirmed with the PSC that all the CIF awards to the City were completed in 2018.

Additionally, the OIG found the Cogeneration program in the Office of Sustainable Energy only spent \$998,406.54 of the \$5,196,555 award, resulting in over \$4 million in unspent funds. Current management contributes the unspent funds to poor project mismanagement and management turnover.

The OIG learned several CIF disbursements were not allocated in accordance with the PSC's disbursement schedules, which resulted in some of the CIF program accounts showing inaccurate deficits and unspent funding. Consequently, the OIG was not able to calculate an accurate amount of funds that were not spent for the programs in question due to inaccurate expenditure records maintained by the agencies. The OIG is requesting the Comptroller's Office of Audits complete a full audit of all programs that received CIF funds.

¹ A program within the Baltimore City Department of Planning.

² The CIF was funded by contributions from Exelon Corporation and it was created as a condition of approval of the Exelon and Constellation merger, which was approved by the Public Service Commission on February 17, 2012 in Order No. 84698.

REPORT FRAUD, WASTE AND ABUSE

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

BACKGROUND

On June 15, 2012, the City submitted eight proposals to the PSC requesting \$55,711,385.08 in CIF funding to provide energy efficiency and energy assistance services to low-income residents of the City. All eight proposals were incorporated into the Coordinating Resources to Effectively Align and Transform Energy Services (CREATES) program, a collaboration of four City agencies composed of eight different energy related programs. The City's CIF proposal included the annual expenditure report projection for each CREATES program. Additionally, the City proposed investing in two independent contractors to conduct evaluations, measurements, and verifications of each awarded program to analyze both the energy and community impact of the CREATES strategies. On November 8, 2012, the PSC collectively awarded all four agencies \$52,876,304 that was divided into the allocated amounts illustrated in Table 1. An estimated \$2,000,000³ of the \$52,876,304 award was to be reserved for the City's projected evaluation, measurement, and verification costs.

Table 1: Customer Investment Fund Allocations made to City Agencies

CREATES Agencies	Total Awarded Amount
Department of Housing and Community Development	\$20,088,482
Department of General Services	\$15,589,665
Department of Planning	\$13,386,194
Mayor's Office of Human Services	\$3,811,963

METHODOLOGY

The OIG confirmed with the PSC that all the CIF funding had been allocated to the City. The PSC reported that CIF funding disbursements were made in ten lump sum payments and were not divided into individual amounts based on programs. The PSC then explained it was the City's responsibility to distribute the funds according to each program's proposed annual budget. The OIG analyzed PSC disbursement schedules from fiscal years 2014 through 2018. The PSC's CIF funding approval for each program is illustrated below in Figure 2. The OIG analyzed the general ledger for the CIF award retrieved from the Department of Finance (DOF) to review each agencies disbursements and program expenditures. Additionally, the City's designated liaison for the CIF award provided the OIG with summarized expenditure reports for each CIF approved program. The OIG interviewed representatives from the DOF, Department of General Services and the Department of Housing and Community Development to understand of how the funds were used and recorded.

Table 2: Approved Program Funding

Proposed Baltimore City Programs	Overall PSC Approved Funding
Baltimore Energy Challenge	\$3,119,782
Case Management	\$3,312,118
Cogeneration	\$5,196,555
Energy Assistance	\$1,885,105
Energy Efficiency	\$7,415,556
Energy Efficiency Plus	\$19,839,215
Retrofits and Upgrades	\$10,393,110
Urban Heat Island Mitigation	\$1,714,863
TOTAL	\$52,876,304

³ Overall PSC Funding totals include the associated EMV costs for each program

OIG INVESTIGATION

Grant Management and Allocations

The OIG consulted with the Bureau of Budget Management and Research (BBMR)⁴ to develop an understanding of the City's grant funding allocation progress. The DOF Budget Director, explained to the OIG that BBMR establishes grant budget allotments for each fiscal year. Agency grant budgets are updated throughout the fiscal year pending grantor disbursements. The DOF Budget Director stated City agencies are responsible for monitoring and reporting their program spending to BBMR.

In the beginning of fiscal year 2014, the City received an initial lump sum of \$15,511,518.20, according to PSC Order No. 85187. The PSC's suggested disbursement schedule was proposed on a monthly, quarterly, semi-annual, and annual basis depending on spending requirements of each individual program. Each year, the PSC disbursement schedule adjusted future allocation amounts in accordance with the City's annual expenditure reporting for each program. The DOF Budget Director stated that management of the CIF grant was difficult because the total awarded amount was not distributed equally amongst the eight approved programs. Additionally, since four different City agencies split the funding, BBMR was initially not aware of which agency was responsible for managing and reporting the annual spending, to the PSC.

The OIG investigation learned that the coordinator for the Department of Planning's of Sustainability (the Coordinator), at the time was selected as the City's point of contact for the CIF award several months after the first disbursement in 2014. During an OIG interview, the Coordinator clarified that her role did not put her in charge of the grant but rather appointed her to be a liaison for the City's Law Department, which directly communicated with the PSC and the managers of each CIF funded program. The Coordinator stated she was also responsible for reminding agencies to provide their programmatic data for the annual expenditure reports that were provided to the PSC.⁵ The PSC required the City to file an annual report on its expenditures, progress, and, effectiveness for each approved program until all funds were expended.

Alleged Missing Award Money—Urban Heat Island Mitigation

The Urban Heat Island Mitigation program was awarded a total of \$1,714,863 to reduce the City's "heat island effect" through the planting of trees and installation of "cool roofs."⁶ The OIG's analysis of PSC reporting and the City's annual reports revealed the Urban Heat Island Mitigation program experienced spending delays following the first disbursement of CIF funding. Specifically, the Urban Heat Island Mitigation program regularly experienced logistical and permitting issues such as the cool roof installation being restricted by colder weather. The OIG noted PSC disbursement schedules indicated the Urban Heat Island Mitigation was distributed annually instead of semi-annually like the other CIF programs due to underperformance and underspending.

PSC Order No. 87991, issued on January 20, 2017, established the City's final disbursement schedule for the remaining programs during the second half of fiscal year 2017 however, due to a limitation in available funding, the Urban Heat Island Mitigation's final disbursement was withheld. On January 30, 2017, the PSC issued a revised disbursement schedule with the remaining \$50,000 disbursement for the Urban Heat Island

⁴ BBMR is an agency within the Baltimore City Finance Department.

⁵ The University of Baltimore Neighborhood Indicator Alliance composed the City's annual expenditure reports that were provided to the PSC.

⁶ Cool roofs use solar-reflective surface treatment to reduce the amount of energy absorbed by the roof which helps lower a building's temperature and cuts energy costs.

Mitigation program being delayed into fiscal year 2018. The OIG confirmed with PSC staff via email that Urban Heat Island Mitigation's final disbursement of CIF funding awarded to the City had been disbursed in 2018.

Unspent Funding

The Coordinator provided the OIG with spreadsheets used to monitor expenditure reporting for all eight programs. The Coordinator advised the OIG that she discovered several CIF disbursements were not allocated in accordance with the PSC's disbursement schedules, which resulted in some of the CIF program accounts showing inaccurate deficits and unspent funding. The Coordinator stated she reported her finding to a BBMR analyst who advised journal entries would need to be created to correct the general ledger accounting information. The Coordinator then stated BBMR constantly assigned the management of the grant to a new analyst, so the journal entries were never created to correct spending deficits. The Coordinator stated that she still needs to meet with BBMR to "balance the checkbook" by verifying that the program accounts depict the appropriate amount distributed for each fiscal year. The OIG found that as of the date of this report, BBMR has yet to add journal entries to the general ledger to correct program allocation inaccuracies.

The OIG confirmed with BBMR that the Coordinator reported unspent CIF funding to them two years ago. The DOF Budget Director admitted that BBMR has not tracked the spending of the CIF grant in the past two years since all the allocated funds for the eight programs was fully dispersed. The DOF Budget Director informed the OIG that the Coordinator reported to BBMR that two Department of General Services programs, Office of Sustainable Energy (OSE)⁷ accounted for the most unspent CIF grant funds. The programs were the Cogeneration program and the Retrofits and Upgrades program. The OIG was advised to consult with the current Deputy Chief of the Energy Office (Deputy Chief), who was tasked with analyzing expenditures for the Cogeneration and Retrofits and Upgrades program, to obtain the unspent funding amounts for both programs.

Cogeneration

The Cogeneration program was awarded \$5,196,555 in CIF funding to build energy plants that would reduce the cost and energy use of the City's water system. The Office of Sustainable Energy implemented the Cogeneration program at four project sites: 1) Back River Waste Water Treatment Plant, 2) Patapsco Waste Water Treatment Plant, 3) Ashburton Water Filtration Plant, and 4) Baltimore City Police Headquarters and the adjoining Central District.

The Deputy Chief informed the OIG that the Cogeneration program only initiated the Back River Waste Water Treatment Plant project. Shortly after being appointed in November 2019, the Deputy Chief learned the three other proposed project sites would not have generated enough revenue to pay off project operation costs. As a result, the Cogeneration program only spent \$998,406.54 of the \$5,196,555 award, which the Deputy Chief stated was mostly used for research instead of implementation. The Deputy Chief then explained \$123,800 of the expended total was used to pay contractors for the Back River project before it was discontinued. The Deputy Chief reported to OIG that Cogeneration has an estimated \$4,198,148 remaining in unspent funding. The Deputy Chief stated the City is going to submit a proposal to the PSC to request that the unspent funds be reallocated to a different CIF approved program.

⁷ The Office of Sustainable energy later was transferred to the Department of Public Works

Retrofits and Upgrades

The Retrofits and Upgrades program was awarded \$13,163,363⁸ to provide grants and loans for Non-Profit organizations, small businesses, and community centers serving low-income residents in the City. The Retrofits and Upgrades program was coordinated by the Office of Sustainable Energy and implemented three different programs: 1) a grant program for nonprofits and small businesses for energy upgrades to facilities, 2) a low interest loan program overseen by nonprofit 1 (NP1) and nonprofit 2 (NP2) as loan partners, and 3) energy efficiency upgrades to city facilities. The OIG reviewed issues only associated with the disbursement of the NP1 and NP2 funds.

The OIG analysis of the City's general ledger for the CIF award revealed NP1 received \$5,250,000 of the Retrofits and Upgrades total award amount. The Deputy Chief reported to the OIG that NP1 expended the funds and has continued to use the grant money in accordance with its grant agreement with the City. The Deputy Chief then stated NP1's grant agreement was scheduled to end in August 2019, however the Board of Estimates amended the agreement so that NP1 could continue managing active CIF funded loans.

The OIG analysis of the City's general ledger for the CIF award revealed NP2 was awarded \$6,000,000. The Deputy Chief reported to the OIG that the City has been "struggling" with obtaining CIF expenditure data and documentation from NP2. The Deputy Chief then went on to say the files received from NP2 were disorganized and riddled with conflicting spending data. In particular, NP2 would verbally report a spending total for a project however, the project cost billed to the City would significantly conflict with what was verbally reported. The Office of Sustainable Energy discovered NP2 procured a consultant on behalf of former Chief of Energy, after his procurement request was denied by DPW leadership. The Deputy Chief discovered NP2's consultant was procured to analyze City property issues and was not allowed under the CIF funding guidelines or NP2's grant agreement with the City. The OIG found NP2 billed the City \$119,625 for services provided by the consulting company.

The City is currently in litigation with NP2 due to allegations that the organization improperly used CIF funding. The Litigation Division of the City's Law Department is in the process of recouping any unspent CIF funding and has requested NP2 to produce transactional data that includes dates, types of services rendered and project expenditures. The Deputy Chief is assisting the Law Department with information for litigation. The Deputy Chief reported to the OIG that NP2 has returned \$1,200,000 in CIF funding to the City. The Deputy Chief stated the City is still expecting NP2 to transfer an estimated \$1,800,000 in active loans and to recoup approximately \$600,000 of unused CIF funding. The OIG was informed the City is waiting until all funds are recouped from NP2 before going to the PSC to request the reallocation of any unspent CIF funding.

INVESTIGATIVE FINDINGS

The OIG found that expenditure reporting contained within BBMR's general ledger for the management of the CIF funds conflicted with the Coordinator's annual record of program spending. Consequently, the lack of uniform expenditure reporting and record keeping severely limited the OIG's ability to determine an accurate amount of unspent funds. The OIG also found that the general ledger still requires journal entries to correct program spending deficits and the perception of unspent funding for certain programs.

The OIG investigation learned the PSC authorized the City to continue implementing its CIF programs through

⁸ The Retrofits and Upgrades program was initially awarded \$10,393,110 however, the City also received an additional CIF disbursement of \$2,250,000 to continue administering the program through 2018. The additional \$2,250,000 is not reflected in the original award because it was a supplemental award

fiscal year 2019 or up until all CIF funding was depleted. The City is required to provide the PSC with a final report upon exhaustion of all awarded funds. The OIG was informed that the City is waiting until all legal matters with NP2 have been resolved before requesting the PSC to permit the reallocation of unspent CIF funding. The OIG found the PSC has not contacted the City to request an update on any unspent or unreported CIF expenditures since all eight programs were fully dispersed in 2018.

The OIG recommends the Comptroller's Office of Audits complete a full audit of all programs that received CIF funding, in order to get an accurate account of expenditures and remaining funds.

Sincerely,



Isabel Mercedes Cumming, Inspector General
Office of the Inspector General

Cc: Hon. Brandon Scott, Mayor of Baltimore City
Hon. Nick Mosby, President, City Council
Hon. Bill Henry, Baltimore City Comptroller
Honorable Members of the Baltimore City Council
Hon. Jim Shea, City Solicitor

REPORT FRAUD, WASTE AND ABUSE

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

Comptroller Response

Case # 20-0058-I



Office of the Comptroller

Bill Henry

Department of Audits | Department of Real Estate
Municipal Post Office | Municipal Telephone
Exchange

January 25, 2021

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

Dear Inspector General Cumming:

Thank you for your letter of January 11, 2021 to Mayor Brandon Scott and the attached Confidential Report of Investigation for Office of Inspector General (OIG) Case #20-0058-1. The Confidential Report of Investigation includes a recommendation that the Department of Audits complete a full audit of all City programs that received grant awards from the Customer Investment Fund (CIF) administered by the Maryland Public Service Commission (PSC). After reviewing the Confidential Report, I was deeply concerned by your findings relating to \$50,000 that "went missing" from the Department of Planning's Urban Heat Island Mitigation program; the significant underutilization of funds by the Department of General Services (DGS) for its Cogeneration program; the improper hiring of a consultant using CIF funds; and the overall lack of uniform expenditure reporting and recordkeeping by the Bureau of the Budget and Management Research (BBMR) of the data submitted by the City's CIF program liaison.

The CIF grant awards were made by the PSC to the City beginning in Fiscal Year 2014 and continuing through FY 2018. The CIF funds were allocated to and spent by four different agencies: the Department of Housing and Community Development (DHCD), the Department of Planning, the Mayor's Office of Human Services (MOHS), and the Office of Sustainable Energy, which was housed in the Department of Public Works (DPW). In addition, the Department of Finance (DOF) played a key role in tracking the use of CIF funds. Any audit of CIF funding therefore potentially encompasses five City agencies.

Until 2017, the Department of Audits conducted financial and performance audits of all agencies on a quadrennial basis. On December 30, 2016 the Department of Audits conducted a quadrennial performance audit of DPW, but none of the performance measures selected for review related to the Office of Sustainable Energy. Similarly, none of the subsequent biennial audits of DPW, DHCD, MOSH, or DOF reviewed any aspect of CIF funding. However, a Financial Audit of the Department of Planning issued on October 14, 2020 contained a control deficiency finding relating to weaknesses in internal controls over review and approval of grant expenditures. The finding was directly related to \$18,000 grant funds for the Baltimore Energy Challenge Program, which was one of the programs funded under CIF.¹ This audit finding

¹ The entire Audit Report can be found here:

https://comptroller.baltimorecity.gov/sites/default/files/DOP_%20FIN_Audit%20Report.pdf.

The internal control finding is detailed on page 20 of the Audit and the agency's response is on page 23.

Ms. Isabel Mercedes Cumming
January 25, 2021
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could provide a starting point, at least for the Department of Planning, for the more thorough review you recommended in your Confidential Report of Investigation.

As Baltimore City Comptroller, I am committed to supporting the Department of Audits in its work of independent, rigorous reviews of City agencies. I am also committed to ensuring agencies are held accountable for implementing meaningful, lasting measures to ensure tighter financial controls and more efficient management practices; the citizens whose taxes fund our agencies deserve no less. In this spirit, I have directed the Department of Audits to undertake the review you recommend in the Confidential Report of Investigation. Staff from the Department of Audits will be in touch with your staff within the next 3-4 weeks to discuss the details of your investigation as they prepare the scope of work for the audit.

In conclusion, I commend you and your staff for your outstanding work on this complex and multi-faceted investigation of apparent misuse and waste of CIF funds. Please consider the Comptroller's Office and the Department of Audits as partners in your efforts on this and future investigations.

Thank you again for the opportunity to respond in an official capacity to the Confidential Report of Investigation for OIG Case #20-0058-1. If you have any questions or would like to discuss this matter in greater detail, please contact me at 410-396-4577.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Henry", with a long horizontal flourish extending to the right.

Bill Henry, Comptroller

cc: Ms. Celeste Amato, Chief of Staff, Comptroller's Office
Mr. Michael Huber, Chief of Staff, Mayor's Office
Josh Pasch, CPA, City Auditor
James L. Shea, Esq, City Solicitor