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



**Isabel Mercedes Cumming  
Inspector General**

**Investigative  
Report Synopsis**

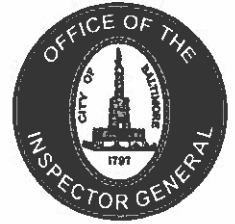
**OIG Case # 20-0050-I**

**Issued: June 2, 2021**

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



June 2, 2021

Dear Citizens of Baltimore City,

The mission of the Office of the Inspector General (OIG) is to promote accountability, efficiency and integrity within City of Baltimore (City) government, as well as to investigate complaints of fraud, financial waste and abuse. The OIG received a complaint about a commercial entity's (CE1) banners attached to City-owned light poles along Pratt Street in the downtown right of way. The complainant alleged the banners were being used for CE1's own commercial gain and believed that such use of banners on public property is prohibited.

The OIG found the City has had an established vertical banner application and approval process administered through the Department of Transportation (DOT). Contrary to previous DOT banner guidelines, which stated banners on City light poles were only available to non-profit organizations, DOT had agreements with CE1 to hang twelve banners on City light poles in 2017 and 2019. Despite these previous guidelines, the Law Department told the OIG that because of a 2015 United States Supreme Court decision<sup>1</sup> regarding temporary signage and subsequent changes made to the City's zoning regulations in 2017,<sup>2</sup> the previous guidelines did not actually preclude DOT from approving banners hung on City light poles by a for-profit organization, like CE1.

Moreover, the OIG found that a completely different set of banners from CE1 replaced the original banners DOT approved in 2017. The banners were installed sometime after the first agreement between DOT and CE1 ended in January 2018 and before the second agreement took effect in September 2019. The OIG's review of archived imaging from July 2019 shows a different set of CE1 banners hung from the same City light poles. Neither DOT nor the Law Department could locate an agreement with CE1 during this timeframe. It is unknown who installed the banners and whether CE1 paid the City's banner fee.

The investigation found the Baltimore Office of Promotion and the Arts (BOPA) administers its own vertical banner program on behalf of the City but separate from DOT. BOPA officials told the OIG that it formally developed policies and procedures for its banner program around January 2020. However, due to the pandemic, those new policies were not implemented until March 2020. The new policies are outlined within BOPA's banner brochure. The brochure sets two costs for banners: \$375 per pole per month for a non-profit organization; and \$425 per pole per month for a for-profit

<sup>1</sup> *Reed v. Town of Gilbert*, 576 U.S. 155 (2015).

<sup>2</sup> Baltimore City Code, Article 32, § 2-202(9).

**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)

organization. BOPA keeps all revenue generated by the vertical banner program and applies it to other operational costs. Prior to implementing the new rates, the amount organizations paid BOPA was based upon individual contracts.

The investigation found that CE1 hung an additional 116 banners from City-owned light poles in the rights of way along Pratt Street, Light Street, and Key Highway via a separate agreement with BOPA. BOPA administers its own banner program in certain portions of the city, apart from DOT. According to this agreement, CE1 paid \$21,000 to BOPA to hang banners from January 2020 to February 2020. However, BOPA allowed CE1's banners to remain up on City light poles for over six months after the agreement with CE1 ended. The OIG did not find that BOPA attempted to renegotiate, or extend, its original agreement with CE1, nor did BOPA inform the City or CE1 that the banners would stay up; CE1's banners remained up without additional payment. According to BOPA's new banner rates established in March 2020, the market value for CE1's banners that remained up for over six months is more than \$142,800.

The investigation also revealed the same situation occurred regarding an agreement to hang banners between BOPA and a second commercial entity (CE2). CE2 paid \$46,475 to BOPA to hang 266 banners from City-owned light poles from September 2019 to February 2020. As was the case with CE1's banners, BOPA did not actually remove CE2's banners at the end of the agreement nor did BOPA inform the City or CE2 that the banners would stay up beyond the agreed upon time period. BOPA's agreement with CE2 ended in February 2020, but BOPA did not request its vendor to remove the banners until September 2020, more than seven months after the agreement ended. Furthermore, the OIG did not find that BOPA attempted to renegotiate, or extend, its original agreement with CE2; all of CE2's banners remained up without additional payment. According to BOPA's new banner rates established in March 2020, the market value for CE2's banners that remained up after the original agreement ended is more than \$303,875.

The OIG interviewed BOPA officials who said that the decision to leave CE1 and CE2's banners up beyond the time period in both agreements was made due to the COVID-19 pandemic. A BOPA official said they decided to leave the banners up because the vendor responsible for removing banners (Vendor 1) was unavailable to perform the removal around February and March 2020. Vendor 1 told the OIG that it was unavailable for a period of time; however, beginning in April 2020, Vendor 1 said it was available to perform any work BOPA requested. Additionally, the same BOPA official told the OIG that the onset of the pandemic had begun by the time BOPA was able to get in touch with Vendor 1 and, by that point, BOPA did not want to remove the banners for aesthetic reasons and because BOPA could not cover the cost of deinstallation (invoices from Vendor 1 indicate the total cost to remove CE1 and CE2's banners was \$9,030).<sup>3</sup> A BOPA official said there were no other organizations lined up to replace CE1 or CE2's banners and the BOPA official believed that it would not be a good look for the city during a time when many other businesses were shut down due to the pandemic.

In addition, the OIG review found wide disparity between the monetary rates BOPA charges organizations to display banners on City light poles and the rates DOT charges. According to current and past banner applications, for an initial six-month display period, DOT charges between \$14 to \$16 a month per pole for equipment and installation of the banners; if an organization decides to renew after

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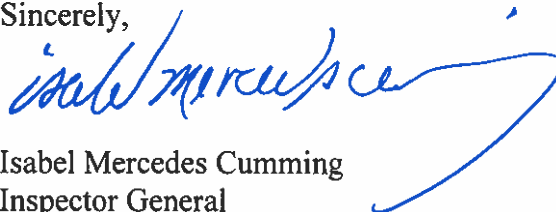
<sup>3</sup> The OIG noted that BOPA's agreements with CE1 and CE2 ended prior to the City or the State of Maryland declaring a State of Emergency due to COVID-19.

the initial six months, the cost then decreases to \$4 a month per pole. BOPA's current pricing structure is between \$375 and \$425 a month per pole. BOPA's rates are 22.5 to 30 times higher than DOT's rates. The OIG also found that BOPA charges non-profit organizations (\$375 per pole, per month) and for-profit organizations (\$425 per pole, per month) two different rates to display banners. According to the Law Department, the varying rates could present a First Amendment issue.

The investigation found that none of the income from BOPA's vertical banner program goes into the City's General Fund. On September 23, 2020, the Board of Estimates approved a new contract with BOPA, which took effect retroactively to July 1, 2019, and outlined the services for which BOPA is responsible. There is no mention of a vertical banner program or detail regarding disposition of banner income within the new contract. According to the Law Department, for BOPA to keep the income it generates from using City property in the rights of way, such as the light poles, it may need a separate agreement with the City.

The OIG received separate responses to its report from both DOT and BOPA (attached). The OIG referred any potential legal issues surrounding BOPA's banner program to the Law Department for further review.

Sincerely,



Isabel Mercedes Cumming  
Inspector General

Cc: Hon. Brandon M. Scott, Mayor  
Hon. Nick J. Mosby, City Council President  
Hon. Bill Henry, Comptroller  
Honorable Members of the City Council  
James L. Shea, Solicitor

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