

Financial Management Practices Audit Report

Montgomery County Public Schools

September 2022

Public Notice:

In compliance with the requirements of the State Government Article Section 2-1224(i), of the Annotated Code of Maryland, the Office of Legislative Audits has redacted cybersecurity findings and related auditee responses from this report.



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

result of COVID-19.⁵ These students were transported using 1,375 system-owned buses. According to MCPS' financial records, fiscal year 2020 transportation costs totaled \$109.4 million.

Electric Bus Lease Agreement Was Properly Procured

Our review of a February 2021 lease agreement for \$168.7 million for the use of 326 electric buses, to be phased into service over a 4-year period, found that the lease was competitively bid and approved by the Board. In its award recommendation, MCPS stated the lease would enable them to increase sustainable practices, be good stewards of our natural resources, and operate in a way that was healthy.

We were advised that the total cost of the electric buses is projected to be recovered through funds that would have otherwise been spent on diesel school bus purchases and operations. MCPS believes that the lease provides a turnkey solution that includes lease costs, charging infrastructure and management, electricity, and reimbursement for maintenance costs. Implementation includes delivery of 25 electric buses in fall 2021, 61 in fall 2022, and approximately 120 electric buses each year thereafter.

School Bus Safety Cameras

As allowed by State and County law, MCPS contracted for the use of school bus safety cameras to monitor drivers who illegally pass a stopped school bus. In May 2016, the Board approved a five-year contract (with five one-year renewal options) with a vendor to install and operate cameras that would be owned and maintained by the vendor on MCPS' school buses. The contract also provided for cameras to monitor the conduct of drivers and students inside the bus along with global positioning units to track the buses. Prior to this contract, MCPS was purchasing buses with cameras inside the bus and global positioning units, which were replaced with the vendor's equipment. In June 2016, MCPS entered into a memorandum of understanding (MOU) with Montgomery County since the Montgomery County Police Department (MCPD) was responsible for the issuance of citations processed by the camera system.

The vendor is responsible for operating the system and processing citation payments. The vendor's cameras take images of vehicles (including a specific image of the vehicle license plate) passing a bus that is operating its alternating

⁵ Due to the COVID-19 pandemic, student transportation stopped on March 13, 2020 and did not resume until March 1, 2021. During this time, MCPS continued to pay its employee bus drivers and advised us that its drivers performed other duties including delivering food and laptops to schools, and delivering materials to students' homes. Additionally, MPCPS advised us that some drivers assisted the Department of Maintenance with certain tasks, including carpentry, air filter installations, and data entry.

flashing red lights. The registered owner(s) of the vehicles are identified by vendor employees using access provided to Maryland Motor Vehicle Administration (MVA) databases, through the MCPD MOU. After MCPD verifies the image of the event constitutes a violation, a vendor employee prints and mails the citation to the registered owner.

Citations can be paid in-person at the Montgomery County Finance Office, online by credit card, electronically through the internet, by phone through an interactive voice response system, or by mailing a check. The County Finance Office processes citation payments paid in-person through the vendor's system. The vendor's system stores the images of each check payment, remittance stub, associated correspondence, envelope and certified mail receipt. All forms of citation payments are deposited into a County bank account and the County transfers all revenue to a MCPS bank account. MCPS is responsible for distributing revenue to the vendor. The vendor is also required to operate a customer service center with a toll-free number and respond to inquiries from the public.

In July 2019, the Montgomery County Office of the Inspector General (OIG) issued a report regarding the County's MOU with MCPS for the School Bus Safety Camera program. According to the report, the OIG initiated the review in August 2018 after the County was made aware of concerns regarding the vendor's history of prior convictions involving fraud and bribery in another state where it operated a similar program. Although the report disclosed that employees of the County or MCPS did not violate a rule, law, or procedure, or had any inappropriate relationship with the vendor, the report identified the following two findings related to the County:

1. The business case for this program was built around the desired use of a predetermined vendor rather than an objective analysis to design an effective and economical method to achieve an identified outcome.
2. County officials relied, at least in part, on information provided by a criminal conspirator in vetting the vendor and they continued to rely on vendor supplied information when considering the future of the program.

Additionally, the report disclosed there was no revenue sharing agreement with the vendor and it was unclear as to when, or even if, the County would recover its investment in the program. Furthermore, the report disclosed the contract terms appeared to be ambiguously, and generously, tilted toward profitability for the vendor. Finally, as of the date of the OIG report, the County had paid more than \$750,000 for administrative and personnel expenses related to this program and over \$10 million in ticket revenue had been transferred to the vendor.

In addition to the concerns addressed by the aforementioned OIG report related to the County, we received an allegation on our fraud, waste, and abuse hotline that MCPS had entered into a contract to place monitoring cameras on school buses that diverts fines to a private entity when they should be paid to the County. Based on our review, we were able to substantiate the allegation as the contract provided that all funds were to go to the vendor until the vendor recovered its cost of investment. As noted below, as of August 31, 2019 MCPS had paid the vendor \$20.9 million, which exceeded the vendor's initial \$19 million estimated cost of investment by \$1.9 million. We also found certain deficiencies with the procurement of the agreement, its terms, and how it was monitored; although, we did not identify any issues that warranted a referral to the Office of the Attorney General – Criminal Division.

Finding 10

MCPS contracted with a vendor for a school bus camera system without a competitive procurement process or a fixed total cost to be paid. In addition, the contract lacked sufficient details to enable effective monitoring of the amounts invoiced and paid to the vendor.

Analysis

MCPS entered into a contract for the use of a vendor's school bus camera system without a competitive process or a fixed total cost to be paid. In addition, the contract lacked sufficient details to enable effective monitoring of the amounts invoiced and paid to the vendor.

Lack of a Competitive Procurement

MCPS did not conduct a competitive procurement for the camera system contract. Rather, a vendor approached the County and MCPS to install and operate a school bus camera system, including interior cameras and global positioning units that MCPS was already purchasing for each bus. Although MCPS prepared a schedule comparing four companies based on various factors (such as number of interior cameras, but not including a financial or cost consideration), it did not have supporting documentation or an indication of how the information was obtained. MCPS management advised us that the contract with the vendor was awarded under an Intergovernmental Cooperative Purchasing Agreement (ICPA) from another state's school system. However, our review of the ICPA noted the following conditions (several of which were previously noted in finding 1 in this audit report):

- Only a single bidder was evaluated by the other school system in awarding the ICPA.

- The ICPA awarded by the other school system was for a 30 bus fleet, while MCPS had a fleet of approximately 1,300 buses.
- MCPS did not prepare a written assessment of the benefits for using the ICPA as required by State law and it did not research or compare other available ICPAs.
- MCPS did not use any of the key terms and conditions of the existing ICPA. Instead, it negotiated its own terms and conditions with the contractor (see comments below).

As a result, we concluded that with the exception of the general service provided, MCPA procured its own unique contract with the vendor without a competitive procurement process and assurance that it obtained the best value for the school bus cameras program. MCPS ultimately awarded the contract to the company that approached them after visiting another state using the vendor's camera system and conducting a limited pilot program. A similar condition regarding documentation of best value when procuring contracts was noted in our preceding audit report.

Lack of Sufficient Financial Terms

The school bus camera contract did not specify the total amount to be paid to the vendor. The contract provided that the vendor would receive all funds collected from citations issued from the cameras (initially \$125 per violation and subsequently increased to \$250 per violation) until the vendor recovered its initial and on-going cost of investment which included the equipment, system installation and operational expenses. At the time of the contract, these costs were estimated by the vendor to be approximately \$19 million. In addition, there was no provision for the independent verification of the vendor's cost of investment. Further, the contract did not specify the payment terms once the vendor's cost of investment was recovered. Instead, the parties agreed to negotiate, at a later date, a revenue sharing plan that would become effective upon the recovery of investment costs (see below).

Monitoring of Vendor's Recovery of Investment Costs

Although MCPS was monitoring the amount of citation payments made to the vendor, MCPS was not monitoring the vendor's investment costs. MCPS advised us that the vendor did not periodically report its total actual investment costs (including changes), and MCPS did not ask for documentation supporting the investment costs since the contract did not specifically require the vendor to provide this documentation. As a result, MCPS was unaware if the vendor had been fully reimbursed for its cost of investment. As of August 31, 2019 MCPS had paid the vendor \$20.9 million, which exceeded the vendor's initial \$19 million estimated cost of investment by \$1.9 million.

Due to the lack of specific financial terms and the lack of documentation for the vendor's investment costs, in June 2019, Montgomery County engaged a consulting firm to conduct a financial compliance review of the bus camera vendor for transactions occurring from July 1, 2016 to August 31, 2019. The consultant was able to verify that citation revenue totaling \$20.9 million was paid to the vendor, but it was unable to definitively determine the amount of the vendor's investment. The consultant offered four options for determining the investment amount which ranged from \$13 million to \$20 million. In response to the consultant's report, the vendor offered an alternative calculation that increased its investment cost from its initial estimate of \$19 million to \$26 million.

Effective October 2019, MCPS executed a contract amendment to address the vendor's compensation and resolve all disputes concerning the vendor's cost of investment. The amendment acknowledged the vendor had recovered its cost of investment without specifying an amount, and stipulated that going forward the vendor would not be required to provide any records concerning the cost to install, operate, or maintain the bus camera system. The amendment also provided that the County would receive an invoice credit of \$1.6 million for certain costs incurred for processing citations.

Finally, the amendment established citation revenue sharing whereby the vendor would receive 60 percent of the citation revenue going forward for additional future vendor costs. The remaining 40 percent was to be received by the County for its citation processing costs. MCPS could not provide us with documentation to support how the revenue sharing percentage was determined or its justification. As of June 30, 2021, MCPS had paid the vendor citation revenue totaling \$21.9 million and the County had received \$4.8 million since the inception of the contract.

Recommendation 10

We recommend that, in the future, MCPS

- a. adhere to statutory requirements for competitive bidding, where appropriate (repeat);**
- b. ensure contracts include adequate and properly defined financial terms, such as total amounts to be paid, and how costs are to be independently verified; and**
- c. document the basis and reasoning for revenue sharing percentages.**

FY2022 School Bus Monitoring System and Stop Safety Review

Pursuant to State Government Transportation
Article § 8-664 and HB0813 / CH0216, 2022
MSAR #s 14213 and 14214

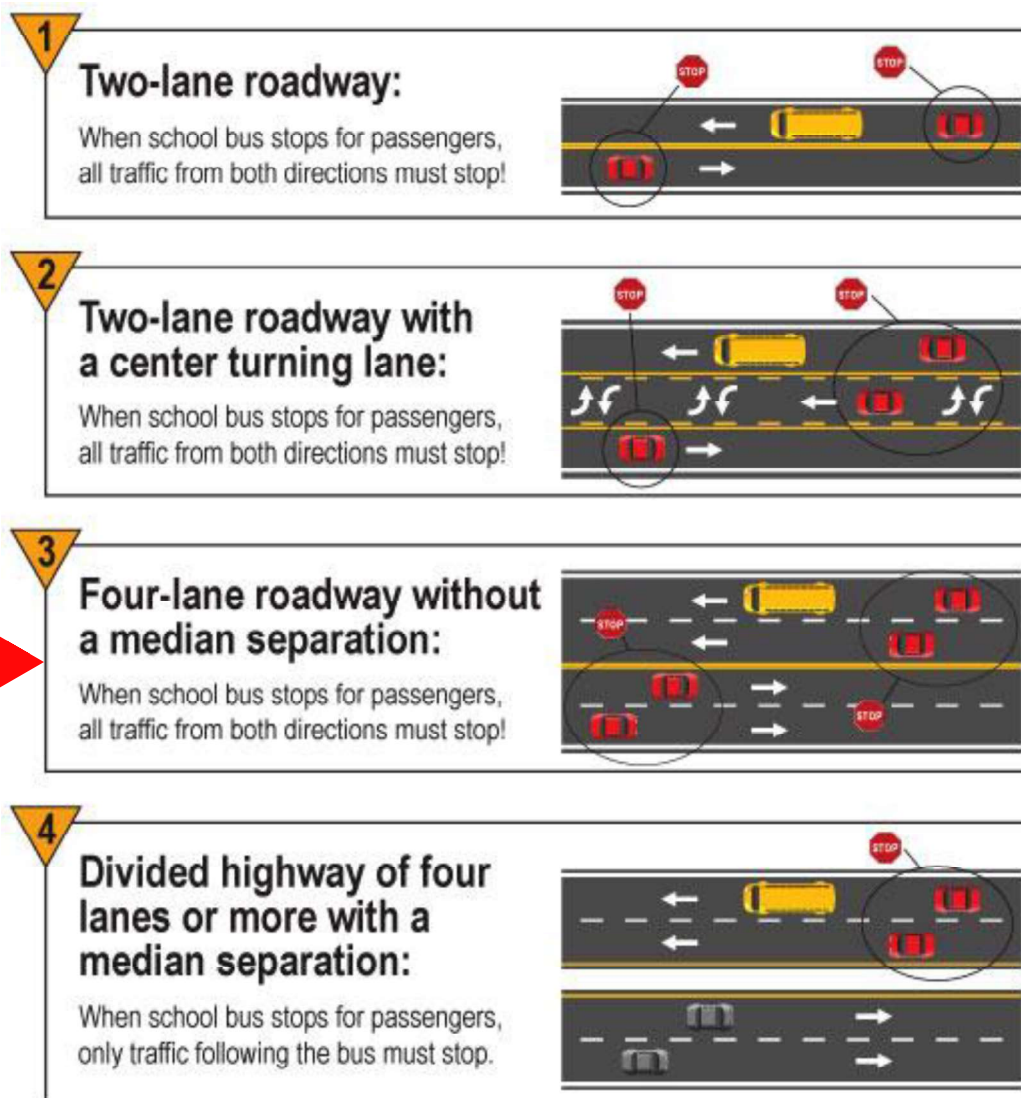
MONTGOMERY COUNTY GOVERNMENT
Final Version
Released December 30, 2022



About the school bus monitoring system

Law for stopping for stopped school buses

When approaching a stopped school bus with activated flashing red lights, Maryland law (MD Code, Transportation, § 21-706) requires that motorists traveling in the same direction as the bus must stop and remain stopped until the stop sign and lights are deactivated. The law also requires that motorists approaching the bus from the opposite direction must stop if there is no physical barrier, such as a grass or raised concrete median.



Citations issued

For fiscal year 2022 (FY22), 59,151 citations were issued under the school bus monitoring program resulting in \$14.8 million in fines. Based on the direction of the passing vehicle, 41,799 (71%) of drivers passed in the opposite direction and 17,352 (29%) were traveling the same direction as the stopped bus.

FY22 represented the most citations issued since the program began in 2016. The increase in violations from the prior two years was the result of all Montgomery County School buses having monitoring systems installed during the 2019-2020 school year and a restart of school bus and commuting patterns coming out of the COVID-19 pandemic. Based on the low level of repeat offenders for the school bus monitoring program and experience from the red-light and speed automated enforcement program, the County expects the number of citations issued to decrease over the next five years.

	FY17	FY18	FY19	FY20*	FY21*	FY22
Citations	16,388	34,033	54,492	50,106	6,910	59,151
<i>Citations per active camera</i>	73.5	67.4	55.2	36.0	4.7	36.7
<i>Citations from opposite direction</i>	0	20,626	34,184	31,217	4,741	41,799
<i>Citations from same direction</i>	0	12,858	20,299	18,889	2,169	17,352
<i>Citations with direction not captured</i>	16,388	549	9	0	0	0
Total fines	\$2,048,500	\$8,508,250	\$13,621,875	\$12,526,500	\$1,727,500	\$14,787,750

*School closures during COVID-19 pandemic resulting in fewer bus trips.

For FY22, the following blocks had the highest number of recorded violations. Eight of the top 10 blocks were along multi-lane State roads with the remaining two belonging to the County. These ten blocks accounted for 18% of all citations issued.

Comparing FY22 top violation blocks to the blocks under review by MCDOT, seven out of the ten blocks were the same. Three stops in the FY22 top ten were not in the prior top ten:

- 800 block of University Blvd E
- 7100 block of Arlington Rd
- 5400 block of Tuckerman Ln

Block	Roadway Owner	Violations Same Direction	Violations from Opposite Direction	Total Violations
5100 River Rd	State	185	1,798	1,983
8800 Colesville Rd	State	203	1,388	1,591
1400 East West Hwy	State	299	1,195	1,494
800 University Blvd E	State	138	1,022	1,160
400 N Frederick Ave	State	85	894	979
7100 Arlington Rd	County	48	798	846
5400 Tuckerman Ln	County	50	642	692
1000 Clopper Rd	State	129	553	682
8900 Piney Branch Rd	State	145	399	544
8800 Piney Branch Rd	State	99	418	517

To see data on citations issued under the school bus monitoring program for all school bus stops, use the link below or visit the Montgomery County Vision Zero website. The reporting unit for school bus stops is the block level.

Link: https://www.montgomerycountymd.gov/visionzero/Resources/Files/FY17-22_Bus_Camera_Tickets_by_Stop_and_Fiscal_Year_PUBLISHED.csv

NOTE ON BLOCK ADDRESSES: When the school bus monitoring system captures a violation, the bus’s latitude and longitude are captured. The latitude and longitude are then matched to the nearest address. When the bus stop is near an intersection, the matched address may be along the intersecting road. Therefore, some of the block information presented in the block summary may reflect a violation that occurred on an intersecting road.

Satellite Image Examples of School Bus Violations on State Highways

1. Photo #1: The 8800 block of Piney Branch Road in Long Branch, with 1,661 citations



2. Photo #2: The 1400 block of East West Highway in Silver Spring, with 2,345 citations



3. Photo #3: The 8800 block of Colesville Road in Silver Spring, with 3,900 citations



Judicial Proceedings Committee
 Voting Record - 2022 Regular Session

Bill/Resolution Number:

HB 813

Vote Date:

4/6/2022

Final Action:

FAV

Motion:

- Favorable
 Favorable with Amendment
 Unfavorable
 Withdrawn by Sponsor
 No Motion
 Referred to Interim - Summer Study
 Re-referred to: _____

Name	Yea	Nay	Abstain	Excused	Absent
Waldstreicher, J., Vice Chair	✓				
Lee, S.	✓				
Cassilly, R.	✓				
Hettleman, S.	✓				
West, C.	✓				
Sydnor, C.	✓				
Watson, R.	✓				
Bailey, J.	✓				
Carter, J.	✓				
Hough, M.	✓				
Smith, W., Chair	✓				
Totals	11	0	0	0	0

Amendment Numbers,
 Consent Bill Lists,
 Other

Committee Reporter: Danora B. Papp

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 813

(Montgomery County Delegation)

Environment and Transportation

Judicial Proceedings

Montgomery County – Speed and School Bus Monitoring Systems MC 03–22

This bill requires Montgomery County to annually submit reports related to school bus monitoring cameras. Additionally, the bill requires Montgomery County, in coordination with the Maryland Department of Transportation (MDOT), to examine data relating to school bus stop violations and implement certain measures in response. **The bill takes effect June 1, 2022; the requirement to coordinate with MDOT, examine specified data, and implement certain measures terminates May 31, 2024.**

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: Montgomery County expenditures and revenues are likely affected, as discussed below.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: By December 31 each year in perpetuity, Montgomery County must:

- compile and make publicly available a report for the previous fiscal year on each school bus monitoring system operated by a local jurisdiction; and
- submit the report to Montgomery County Public Schools (MCPS), MDOT, the Montgomery County Department of Transportation (MCDOT), the Montgomery County VisionZero Coordinator, and the Montgomery County Delegation to the General Assembly.

The report must include:

- the number of violations that occurred at each school bus stop in each of the previous six fiscal years;
- a breakdown of the violations by the direction in which each vehicle involved in a violation was traveling in relation to the stopped school bus; and
- the total amount of fines issued for violations at each school bus stop in each of the previous six fiscal years.

Additionally, Montgomery County, in coordination with MDOT, must examine school bus stop violation data to determine the 10 school bus stop locations at which the highest number of citations for passing a stopped school bus are issued and implement operational alternatives for those stops, including:

- ensuring that all public outreach and information about the school bus camera program and citations issued for related violations are provided in multiple languages;
- producing and implementing public hyperlocal education campaigns about school bus stop laws, in coordination with MDOT;
- improving signage and markings at school bus stops;
- identifying and implementing strategies that will improve driver expectancy and pedestrian safety;
- examining alternative penalties for a driver's first offense for the purpose of not financially penalizing a driver for failure to know the law or the area;
- relocating school bus stops at which the most violations occur to safer locations, if warranted; and
- convening regular meetings between MCPS, the Montgomery County Police Department, and other stakeholders to examine data trends and explore other plans to reduce violations and improve safety at school bus stops.

This requirement terminates May 31, 2024. However, before then, Montgomery County must report to the General Assembly on its findings and the actions taken to implement improvements. Reports are due December 31, 2022, and December 31, 2023.

Current Law:

School Bus Monitoring Cameras

Local jurisdictions may use school bus monitoring camera systems if expressly authorized by the governing body. If authorized, a law enforcement agency, in consultation with the local board of education, may place school bus monitoring cameras on school buses in the

county. A recorded image indicating a violation must include (1) an image of the motor vehicle; (2) an image of at least one of the motor vehicle's registration plates; (3) the time and date of the violation; and (4) to the extent possible, the location of the violation.

Unless the driver receives a citation from a police officer at the time of the violation, the owner of the vehicle is subject to a civil penalty if the vehicle is recorded by a school bus monitoring camera. (If the District Court finds that the person named in the citation – the owner – was not operating the vehicle at the time of the violation or receives evidence identifying the driver, the law enforcement agency may issue a citation to the operator of the vehicle instead.) The civil penalty may not exceed \$500. The District Court must prescribe a uniform citation form and a civil penalty that may be paid if the person chooses to prepay the civil penalty without appearing in District Court.

From the fines collected, a political subdivision may recover the costs of implementing and administering the school bus monitoring cameras and may spend any remaining balance solely for public safety purposes, including pedestrian safety programs.

Local Fiscal Effect: Although Montgomery County can meet the bill's reporting requirements with existing resources, the bill also requires the county to implement operational alternatives for school bus stop locations that have high numbers of violations. The exact alternatives that may be selected by the county under the bill cannot be determined at this time, as the county must first examine the affected school bus stops prior to developing and implementing operational alternatives. However, MCDOT advises the bill has an impact on local finances. For example, new printing costs under the bill (*e.g.*, printing citations in multiple languages) and additional outreach costs could total between \$60,000 and \$300,000 annually. Additional costs may be incurred for signage changes. Most such costs are assumed to be incurred in fiscal 2023 and 2024.

The requirement to examine and implement alternative penalties so as to not financially penalize a driver for a first violation (which could be interpreted as requiring that warnings be issued) may have a significant impact on county revenues. *For illustrative purposes*, MCDOT advises that issuing only warnings for a first violation could reduce net revenues by about \$3.8 million annually based on fiscal 2020 data. While the bill requires the county to examine alternative penalties for a first offense, it does not specifically *require* issuing only a warning. Furthermore, the many specified measures to be examined and possibly implemented are intended to improve safety and reduce the number of violations. Accordingly, revenues from fines are likely significantly reduced regardless of whether warnings are issued. Any such revenue impact is likely ongoing.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Montgomery County; Maryland Department of Transportation;
Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2022
fnu2/ljm Third Reader - March 30, 2022
Revised - Amendment(s) - March 30, 2022

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