



## **SPECIAL PROJECT REPORT**

**October 16, 2020**

**Bike Parking Facility (Bike & Ride)  
Construction Project Review**

## **Background**

The Office of Inspector General (OIG) received a request for information from the U.S. Senate Subcommittee on Federal Spending Oversight and Emergency Management and the public at large (hotline complaints and social media inquiries) regarding the construction and completion status of the Washington Metropolitan Area Transit Authority's (WMATA) multi-year bike parking facility construction projects at College Park (CP), East Falls Church (EFC), and Vienna Metro Stations. The bike parking construction project (also known as the "Bike & Ride" project) is part of a larger Capital program that began in 2011 to increase bicycle and pedestrian connections at and to Metrorail stations.<sup>1</sup>

## **Executive Summary**

OIG's review focused on the Bike & Ride project at EFC and Vienna Metro Stations based on information received and a request from a Senate oversight committee. At the time of OIG's review, the College Park (CP) Bike and Ride facility was already built. While OIG's focus was on EFC and Vienna, we reviewed costs associated with all three stations.

OIG's review identified, for EFC and Vienna, a lack of project coordination and weaknesses in contract awards, contract oversight, record retention, and communications, including significant project schedule delays and additional costs. Specifically, the review found:

- WMATA spent over \$5.9 million on three (3) Bike and Ride facilities, and to date, only two (2) facilities have opened in five (5) years of construction;
- Information provided to passengers and the public regarding the program and its construction schedule delays were not updated timely;
- Inadequate program/contract management practices and work stoppage due to contractor mistakes at the job site, as well as contract/litigation related matters in part led to significant delays and additional costs to WMATA; and,
- Payment authorization and the contract files were not in compliance with appropriate record retention requirements.

The three (3) Bike and Ride facilities will ultimately provide 304 parking spaces for bicycles. Taking into account how much they have spent so far, this amounts to approximately \$19,400 per space.

The Bike & Ride project is seriously delayed, having only one facility completed at CP in 2012, with two additional facilities, EFC and Vienna, initially scheduled for completion in 2015. The EFC and Vienna Bike & Rides were subsequently rescheduled for completion in 2017 and 2018, respectively—both were then rescheduled for completion in the Spring of 2020 and again rescheduled for June 2020 and September 2020, respectively. The EFC Bike & Ride eventually completed its construction work in July and opened in August 2020. The Vienna facility is not yet completed. The estimated total amount of expenses spent for the project during FY 2011-2020 was \$5,966,180, providing 120 spaces at CP and a projected 184 spaces at both EFC and Vienna combined.

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<sup>1</sup>Metro Pedestrian and Bicycle Element of 2012-2017 Capital Improvement Program (CIP). The CIP addresses WMATA's physical asset requirements by advancing safety and state of good repair needs in the system.

## Project Overview

In 2011, WMATA's Office of Long Range Planning led a study to evaluate pedestrian and bicycle access conditions at all Metro stations across the system and adjacent environment.<sup>2</sup> The study provided recommendations on improving these access conditions for WMATA's Capital Improvement Program (CIP). As part of FY 2012-2017 CIP, the bicycle and pedestrian access improvement program was initially allocated \$6.6 million over five years, including its Bike & Ride facility design and construction project.<sup>3</sup> The Office of Real Estate and Parking (LAND) is responsible for implementing the overall bicycle and pedestrian access project. LAND's project manager is assigned to coordinate the Bike & Ride project and other parking-related activities.

The primary goal of the project was to increase bicycle parking capacity at Metrorail stations and improve bicycle and pedestrian connections at and to Metrorail stations. The project timeline started in July 2011, with its estimated completion date in June 2025. At the time of OIG's review, the Bike & Ride project had completed one bike parking facility at CP, and the additional two were in process at EFC and Vienna, encountering significant delays. (Figure 1A, B & C)

**Figure 1A. College Park Bike & Ride**



**B. East Falls Church Bike & Ride**



**C. Vienna Bike & Ride**



<sup>2</sup>Metrorail Bicycle and Pedestrian Access Improvement Study, October 2010

<sup>3</sup>Metro Pedestrian and Bicycle Element of 2012-2017 Capital Improvement Program, pg. 1.

WMATA is currently assessing the program to determine its path forward as part of the new capital planning process; the program planning process requires a “business case” to advance the implementation of the CIP.<sup>4</sup>

### **Project Contracts**

The Office of Procurement (PRMT) originally awarded three contracts to the first contractor (Contractor 1), with a total contract value of \$1,803,312. After completing the first CP facility in May 2012, Contractor 1 began the Bike & Ride construction work at the EFC and Vienna Metro Stations in February 2015; however, there have been significant delays at both stations during the past five years.

The project deliverables included:

- One completed bicycle parking facility at CP Metro Station, providing 120 bike parking spaces;
- Two additional facilities (EFC & Vienna), adding 184 parking spaces together.

Specifically, in 2011, as part of the Job Order Contract (JOC), WMATA awarded the initial CP Bike & Ride construction project work to Contractor 1.<sup>5</sup> Construction started in August 2011 and was completed in May 2012, at the cost of \$417,905.<sup>6</sup> In 2015, WMATA awarded additional work orders to Contractor 1 for the construction of EFC and Vienna metro stations. The contract value for EFC and Vienna was \$789,544 and \$601,009, respectively. Construction at both stations began in early 2015.

The construction of EFC and Vienna encountered numerous construction and payment challenges. In late 2016, PRMT and Contractor 1 mutually agreed to terminate the overall JOC, leaving the contractor’s work at the EFC and Vienna bike facilities incomplete. Documentation relating to the EFC and Vienna contract files were either incomplete or not available for OIG to review to understand the final settlement with Contractor 1. As a result, OIG could not determine the extent of the challenges or the amount that WMATA had agreed to pay for the incomplete work.

To complete the Bike & Ride facilities work at EFC and Vienna stations, in October 2017 and July 2018, respectively, WMATA awarded two construction contracts to a second contractor (Contractor 2). The initial awards were \$800,000 and \$1,116,000 for EFC and Vienna, respectively. Also, there were two modifications approved by a WMATA Change Control Board, the entity that provides governance over contract modifications. The EFC contract modification totaled an additional \$345,000, and the modification for Vienna totaled an additional \$186,000. Each modification also extended the estimated completion date.

OIG learned from a January 24, 2014, Federal Transit Administration (FTA) Financial Management Oversight (FMO) Review report that FTA cited “significant deficiencies” involving WMATA’s JOC contracts and referenced the contracts related to this project. In part, the report cited a lack of written procedures to determine if a JOC contractor has the requisite expertise to undertake the job and inadequate justification for awarding a JOC contract instead of pursuing a competitive procurement. WMATA’s management response, in part, stated that it “concur[s]” with FTA’s findings; however, additional contract/task order awards for this project and others under similar limited competition

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<sup>4</sup>Program of Projects, Strategy, Planning & Program Management, December 2019, pg. 58.

<sup>5</sup>The JOC program, which is an IDIQ (Indefinite Delivery/Indefinite Quantity) contract, awarded three general contractors to compete amongst themselves for various “Repair/Rehabilitation” task orders, including Bike & Ride facility construction projects.

<sup>6</sup>Contract award \$412,758.92; cost overrun of \$5,145.77 via a separate JOC.

also lacked documentation of job-related expertise and justification. According to the Office of Procurement (PRMT), the subsequent Multiple Award Task Order Contract (MATOC) contractors were initially selected based on full and open competition. The task orders were competed among the MATOC contractors as a means of secondary competition. PRMT stated the use of the MATOC contract is industry standard and provides an efficient and timely means of executing smaller construction projects. Based on OIG's review, the procurement process for this project did not provide an adequate pool of contractors, participating in either JOC or its successor, MATOC.

According to LAND, at the time of OIG's review, three additional Bike & Ride facilities were in their design phase at West Hyattsville, Prince George's Plaza, and Takoma Metro Stations. LAND indicated that it was planning 13 additional Bike & Ride construction projects at the following Metro Stations: Braddock Road, Dupont Circle, Foggy Bottom-GWU, King St-Old Town, NoMa-Gallaudet U, Greenbelt, Silver Spring, Bethesda, Eastern Market, Twinbrook, Medical Center, Woodley Park-Zoo, and Forest Glen Metro Stations. However, the Capital program involving future Bike & Ride projects is being reassessed to determine its best path forward.

At the time of our review, the Office of Infrastructure Renewal Program Group (IRPG) provided oversight of the contractors' work in support of the Bike & Ride construction project.<sup>7</sup> According to IRPG, in January 2020, Contractor 2 began dismantling the Bike & Ride construction built by Contractor 1 at Vienna Station because of its improper cement work (**Figure 2**). The contract modification for this work at Vienna Station was issued on January 22, 2020; a new estimated completion date was set for March 27, 2020. However, as of the date of this report, the project is scheduled for completion in October 2020. In addition, according to PRMT, IRPG has not provided oversight of MATOC projects since February 2020. This was moved to a new office, Adjacent and Task Order Contracts. (ATOC).

**Figure 2. Vienna Station Bike & Ride**



Dismantled Construction of Concrete Footer by Contractor 1



Repair of Concrete Footer by Contractor 2

<sup>7</sup> The MATOC program was placed under the Office of Adjacent and Task Order Contracts (ATOC) in February 2020.

### Contract Awards and Payments

OIG reviewed WMATA’s Accounting (ACCT) record of expenses incurred during FY 2011-2020 for the Bike & Ride contract work and related procurement expenses. The Bike & Ride related procurement activities included certain infrastructure items that are required for Bike & Ride, such as communication software upgrades and electrical work.

The estimated total amount of expenses spent for the Bike & Ride construction project during FY 2011-2020 was \$5,966,180. To date, both contractors have been paid \$3,257,117 (Figure 3).

**Figure 3. Payments to Contractors 1 and 2 for three Stations**

Bike & Ride Location	Contractor	Total Contract Value	Payment (As of January 2020)	Total Payment (By Location)
College Park (120 Spaces)	1	\$ 412,759	\$ 417,905	\$ 417,905
EFC (92 spaces)	1	789,544	776,034	1,867,034
	2	1,145,000	1,091,000	
Vienna (92 spaces)	1	601,009	537,678	972,178
	2	1,302,000	434,500	
<b>Total</b>		<b>\$4,250,312</b>	<b>\$3,257,117</b>	<b>\$3,257,117</b>

In addition to payments to both contractors, there were other associated payments made for items related to the Bike & Ride construction project (Figure 4).

**Figure 4. Other Payments Associated with the Construction**

Bike & Ride Related Contract Description	Total Expenses
Bike & Ride Site Plan Development	\$1,050,700
DELL A7586335-1 and 2 PIVOT3	105,000
24-port switches	8,038
Design & Construction of Bike & Ride	527,764
Bicycle Parking Facility Design	283,026
Software Upgrade for Bike & Ride Facility Access	531,262
Electrical/Video Management	154,074
Vienna Bike & Ride Concrete Testing	1,200
Bicycle Parking Facility Access	48,000
<b>Total – Bike &amp; Ride Facility Related Expenses</b>	<b>\$2,709,063</b>

While Contractor 1 completed construction of the CP facility, they did not complete the construction at EFC and Vienna. However, as part of a global settlement, Contractor 1 was paid \$1,313,712 or 94 percent of the Bike & Ride contract value totaling \$1,390,553. The percentage of work completed at EFC could not be determined, due to lack of relevant documentation. Some work completed by Contractor 1 at EFC and Vienna Stations had to be redone.

OIG was informed that Contractor 1 did not complete the work at EFC and Vienna, because after multiple disputes WMATA and the contractor settled and mutually agreed to terminate the contract and other open contracts. However, WMATA was unable to provide OIG with the settlement agreement or final documentation that reflected the payment accepted. Contractor 1's contract files for both EFC and Vienna did not contain any closeout documentation indicating a settlement and OIG ultimately learned that there was no written settlement agreement with Contractor 1.

When OIG inquired about the circumstances surrounding Contractor 1, the Contracting Officer (CO) explained that the settlement was more like a "termination for convenience."

### **OIG Observations**

The importance of complete contract files and documentation is paramount to understanding the nature and progression of a contract and provides pertinent information on decision-making. According to WMATA's Procurement Procedures Manual, the documentation in each contract file maintained by PRMT "shall be sufficient to constitute a complete history of the transaction" for purposes such as: providing a complete background as a basis for the decisions made at each step of the procurement process; supporting actions taken; and providing information for reviews and investigations. OIG recommends:

- Instruct staff to review and prepare appropriate closeout documentation for Contractor 1's contract file, in compliance with the Procurement Procedures Manual and related record retention requirements. This should include records of the "settlement" with Contractor 1.

The CO believed that the settlement was a "business contractual issue," not a performance matter and that the termination of the contract was under CO's authority as a matter of management's decision, in addition to consulting with the Acting Chief Procurement Officer at the time of the decision. The CO indicated that she did not consult with the Office of General Counsel (COUN), as the CO believed that it did not require any legal consultation.<sup>8</sup> Contractor 2 completed the construction of EFC however they are still working on Vienna, to include redoing Contractor 1's previous construction work.

### **Construction Schedule Delays and Passenger/Public Information Communication**

The IRPG and LAND project managers described significant delays involving the Bike & Ride construction completion schedule. According to them, during the past five years, delays were attributed to unexpected events involving two general contractors. There was a significant delay of work during the settlement process of Contractor 1 and the selection and award of Contractor 2.

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<sup>8</sup>OIG also contacted COUN; COUN informed OIG that it did not have a copy of the settlement.

Contractor 2 also had its own project litigation issues that stopped work for approximately six months. Other delays included:

- Contractor 1 inadvertently drilled into an existing duct bank three times during its work at the EFC Station, causing a work stoppage.
- The Vienna Station project required additional work by Contractor 2 to correct original work related to the knee wall, foundation, and drainage.

At the time of OIG’s review, IRPG initially stated that EFC’s Bike & Ride may open in February or March 2020, as it needed to resolve an unexpected canopy issue. IRPG subsequently informed OIG that it anticipated completing its “punch list” for EFC by June 30, 2020 and that Vienna is scheduled for completion in September 2020. EFC finally completed its construction in July 2020 and opened in August 2020. Vienna is not yet completed.

Over the course of the construction at the EFC and Vienna Bike & Ride, some of the information on the progress of the Bike & Ride facilities provided to passengers and the public was not coordinated and updated timely. For example, construction signs informing passengers at Metro Stations provided inconsistent, untimely information. The original sign showed the bike and ride would open in 2018 yet it was still posted in 2019 without being appropriately updated (Figure 5).

**Figure 5. Sign posted outside of the EFC Station**



### **OIG Observations**

During OIG’s review, according to information provided, there was no point of responsibility for coordinating and updating information to keep passengers and the public informed of delays and opening dates. OIG recommends:

- Develop a communication plan that provides updates to Metro riders and the public relative to completion time frames for the Bike & Ride facilities under construction at the Vienna Station and other stations in the future as appropriate. In addition, posted signs should reflect the correct operating hours.

After EFC's opening in August 2020, there was a news report indicating that there was incorrect signage at the facility regarding its Bike & Ride operating hours (Figure 6).

**Figure 6. Signage at EFC with incorrect operating hours**



As of September 29, 2020, the signage at the EFC Bike and Ride facility incorrectly posted the customer service operating hours (Figure 7). OIG was advised by WMATA that they will correct the customer service operating hours on the current sign.

**Figure 7. Signage at EFC with incorrect customer service hours**



Inclusive in the total Bike & Ride costs identified above are the following project modifications:

### **EFC Project**

Contractor 2's first EFC contract modification for \$250,000 represented additional items that were required to be redone, such as the removal and replacement of concrete walk, engineer and installation of Americans with Disabilities Act (ADA) compliant ramps, etc. The second change order request for an additional \$95,000, in part, stated: "The additional work is required... and materials were sorted/identified as missing from the inventory turnover of materials by that previous contractor...." According to the Independent Cost Estimate (ICE), which was not required to conduct an inventory of material items, the estimator said that there were high value items present at the time of estimation, such as the canopy, paneling, etc.

The CO acknowledged that the second change order was necessary to replace missing items identified on the change order. IRPG confirmed that it was necessary to purchase missing material items in the amount of \$74,573.<sup>9</sup> IRPG also explained that when the CO “released” Contractor 1 with a settlement, the contractor “dropped off” EFC construction materials at the warehouse. IRPG indicated that it did an initial check of the materials; however, the items sat “out there for over a year.” Further, IRPG provided incomplete records to support the amount of the missing material. IRPG provided copies of 26 invoices from the contractor for various material items; the total invoice value for the materials was \$30,129.78, which did not agree with the amount of total cost for missing materials.

### **Vienna Project**

OIG reviewed the Vienna Bike & Ride construction contract for Contractor 2. Contractor 2 was awarded a contract on July 27, 2018, in the amount of \$1,116,000, with its Notice to Proceed and commencement of work to begin on August 7, 2018. On January 22, 2020, the contract was modified, adding an additional \$186,000 to the contract, increasing its value to \$1,302,000. The contract also extended the completion date to March 27, 2020. The change order was to correct previous work, demolish and rebuild existing cement walls that were done incorrectly, and incorporate additional walkways. The project is still incomplete. Completion is expected in October 2020.

OIG reviewed Contractor 2’s contract Partial Payment Authorization Form, dated June 26, 2019, for its work at Vienna Station. The form included the cost of “Structural and Misc. Metals” for \$129,500 and included the Contracting Officer’s Technical Representative (COTR) certification stating: “Goods/services were received, and the total amount authorized for payment was supported by appropriate documentation.” When asked for supporting documentation, the COTR provided photos of the materials from the contractor and an explanation that the materials were verified by the COTR’s staff. However, the COTR did not have actual supporting documentation for the materials.

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<sup>9</sup>The second change order (Mod #2) is totaled \$95,000, including \$74,573 for missing items such as steel mesh, steel double door, etc. and other related costs.

## **OIG Observations**

As a recipient of funding from the U.S. Government and others, WMATA is required to take “all reasonable and prudent action” to safeguard the property in accordance with the Asset Management Manual. OIG learned that there was no formal inventory or controls of the material transferred from Contractor 1 to WMATA when the contractor left the project site. OIG recommends:

- Require staff to review and reconcile the loss of material items in accordance with WMATA’s asset management policy and procedures for the EFC Bike & Ride contract.

In addition, Contractor 2 was not required to submit its material POs in support of the invoices unless requested. According to the Capital Program Financial Management, ACCT does not require supporting documentation to be submitted with the invoice and certification form; however, it expects the project office to review and maintain the documentation. OIG recommends:

- Require staff to review and maintain appropriate supporting documentation (i.e., Purchase Order/receipt) for the Partial Payment Authorization Form, “Structural and Misc. Metals” in the amount of \$129,500, dated June 26, 2019, and other project’s payment authorizations.
- Instruct staff to review current processes for future contracts related to supporting documentation requirements to ensure that WMATA is paying and verifying receipt of the goods.

## **Summary of Recommendations:**

The OIG recognizes WMATA’s positive efforts, through its new capital planning process, that promote certain key milestone reviews and data-driven methods to measure the progress, increase transparency, and target critical assets.<sup>10</sup>

We recommend the General Manager/Chief Executive Officer take the following actions to address the issues identified above:

1. Improve effectiveness and efficiency of the bicycle and pedestrian program. Improvements should include appropriate program goals, determining measures to reduce costs if WMATA continues with the construction of Bike & Rides at other stations;
2. Instruct staff to review and prepare appropriate closeout documentation for Contractor 1’s contract file, in compliance with the Procurement Procedures Manual and related to legal/record retention requirements. This should include records of the “settlement” with the Contactor 1;

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<sup>10</sup>FY2021 Capital Program presentation by SPPM, October 7, 2019, pg. 13.

3. Develop a communication plan that provides updates to the public relative to completion time frames for the Bike & Ride facilities under construction at the Vienna Station and other stations in the future as appropriate. In addition, change the signage at EFC to reflect the proper operating hours;
4. Require staff to review and reconcile the loss of material items in accordance with WMATA's asset management policy and procedures for the EFC Bike & Ride contract;
5. Require staff to review and maintain appropriate supporting documentation (i.e., Purchase Order/receipt) for the Partial Payment Authorization Form, "Structural and Misc. Metals" in the amount of \$129,500, dated June 26, 2019, and other project's payment authorizations;
6. Instruct staff to review current processes for future contracts related to supporting documentation requirements to ensure that WMATA is paying and verifying receipt of the goods; and,
7. Require staff to take appropriate action to increase the pool of qualified MATOC contractors if WMATA continues with the construction of Bike & Rides at other stations. WMATA staff should review the criteria when attempting to use MATOC contractors to ensure that these task order contracts are robust and promote full and open competition for the project.

Please provide a response to OIG's recommendations by October 30, 2020.

## **TO REPORT FRAUD, WASTE, OR ABUSE**

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### **Please Contact:**

Email: [hotline@wmataoig.gov](mailto:hotline@wmataoig.gov)

Telephone: 1-888-234-2374

Address: WMATA  
Office of Inspector General  
Hotline Program  
500 L'Enfant Plaza, S.W., Suite 800  
Washington, D.C. 20024