



# HARFORD COUNTY, MARYLAND

## Office of the County Auditor

### **AUDIT OF PUBLIC INFORMATION, OPEN MEETINGS AND RECORDS RETENTION COMPLIANCE**

#### **Report Highlights**

**Report Number:** 2018-A-05

**Date Issued:** 10/26/2017

#### **Why We Did This Audit**

This audit was conducted as part of the County Auditor's risk-based Annual Audit Plan approved by the County Council for FY2018.

#### **What We Found**

We noted that controls can be improved to ensure the County complies with State regulations.

Council Members and County Executive Glassman:

In accordance with Section 213 of the Harford County Charter, we have performed an audit of Public Information, Open Meetings and Records Retention Compliance. The results of that audit, our findings and recommendations for improvement are detailed in the attached report. We would like to thank the members of management for their cooperation during the audit.

The audit found that generally, Public Information Act requests are responded to in the required time period and most provisions of the Open Meetings Act (OMA) are being met. However, many records retention schedules have not been created and filed with the Maryland State Archives. Controls can be improved to ensure the County is in compliance with all State regulations regarding OMA and Records Retention.

The audit team is available to respond to any questions you have regarding the attached report.

#### **Audit Team:**

Chrystal Brooks  
CPA, CIA, CGAP, CISA, CGFM,  
CRMA  
*County Auditor*

Sarah Self  
*Staff Auditor*

Sincerely,

Chrystal Brooks  
County Auditor

cc: Ms. Melissa Lambert, County Attorney  
Ms. Mary Kate Herbig, Senior Assistant County Attorney  
Mr. Billy Boniface, Director of Administration



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### REVIEW RESULTS

We have audited Public Information, Open Meetings and Records Retention Compliance for the period of 7/1/2015 through 6/30/2017. Maryland has instituted the Public Information Act and Open Meetings Act to ensure government activities remain transparent to the public and encourage open decision-making by government bodies. In addition, the State requires County governments to develop programs to efficiently manage their records by establishing and regularly reviewing records retention and disposition schedules.

Our opinion, based on the evidence obtained, is that while some controls are in place and operating effectively, controls can be improved to ensure the County is in compliance with all applicable State regulations. The audit approach focused on testing the key controls that address management's objectives for the process. Conclusions drawn are below.

Risk	Expected Control	Conclusion
Records of County business are not maintained	<ul style="list-style-type: none"> <li>• Each department develops records retention and disposal schedules</li> <li>• Schedules are filed with the Maryland State Archives</li> <li>• Retention and disposal schedules are reviewed and updated on a regular basis</li> </ul>	Needs Improvement  Unsatisfactory  Unsatisfactory
Records of County business are not made available for public inspection	<ul style="list-style-type: none"> <li>• Information requests receive responses within 30 days</li> <li>• The Law department reviews sensitive or complicated information requests prior to distribution of records</li> <li>• Responses for information that cannot be provided specify the legal reason for exclusion from disclosure</li> </ul>	Satisfactory  Satisfactory  Satisfactory
Conduct of government business is not accessible to the public	<ul style="list-style-type: none"> <li>• County boards and commissions advertise their meetings</li> <li>• Public meetings are held in publicly accessible locations</li> <li>• Meeting minutes are posted online and in a timely manner</li> <li>• Each public board has a designated representative, trained in Open Meetings Act compliance</li> </ul>	Satisfactory  Satisfactory  Needs Improvement  Needs Improvement

Areas for improvement are described in the Findings and Corrective Actions section of this report. Management has been provided an opportunity to respond to this report; the responses provided follows each Finding below.

## **FINDINGS AND CORRECTIVE ACTIONS**

### **Finding Number: 2018-A-05.01 Lack of Current Records Retention Schedules**

#### **Records retention schedules are not available.**

**Analysis:** Maryland State Government requires that "Each unit of the State government shall have a program for the continual, economical, and efficient management of the records of the unit." Code Section 10-610 lists the program requirements for records management, which includes the need for a procedure "to establish and to revise, in accordance with the regulations, record retention and disposal schedules that ensure the prompt and orderly disposition of records that the unit no longer needs for its operation." In practice, a records retention and disposal schedule is a written statement of actions to be taken with respect to all records created, received, and or maintained by the unit, which is filed with the Maryland State Archives (MSA).

In our review, we were able to find records retention schedules with the MSA for ten (10) County departments/units. However, these schedules all date from 1998 or 1999. We were provided two additional retention schedules that had not been filed with MSA. We did not find any schedules for 10 other departments/units. For the 14 retention schedules that do exist, we noted that only one was updated in the past two years.

Without relevant document retention and disposal standards, records involving public information may be destroyed before they are no longer needed. Further, storage of unnecessary or old documents, particularly paper files, may increase County costs.

**Recommendation:** Each County Department should develop a current records retention schedule and file it with Maryland State Archives.

**Management Response:** Management will coordinate with County Departments to develop/update current records retention schedules and file with Maryland State Archives.

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**Finding Number: 2018-A-05.02 Lack of Public Access to Meeting Minutes**

**Some Meeting Agendas and Minutes are not available for public review.**

**Analysis:** Maryland's Open Meetings Act is a statute that requires many State and local public bodies to hold their meetings in public, to give the public adequate notice of those meetings, and to allow the public to inspect meetings minutes. As part of Maryland's Open Meetings Act, public bodies must draft and adopt minutes for any meeting subject to the Act. In addition, public bodies must retain a copy of their minutes of the meeting for five years and are required to post those minutes online. If this action is not done, the public body or commission can be found in violation of the Act. By not making meeting minutes available online for public review, the County is not in compliance with the Open Meetings Act.

In our review of 35 meetings for 24 public boards, we noted that 3 meetings did not have agendas and meeting minutes available for review. Additionally, 12 boards do not post copies of their minutes online.

Although the County's website provides a platform to create meeting agendas, advertise meetings and retain completed meeting minutes, those functions have not been fully utilized by the County's Boards. In some cases, responsible officials did not know about the requirement to post the minutes online. Additionally, some users may not be aware of the meeting coordination tools available through the County website.

**Recommendation:** Responsible officials for each board should utilize the systems in place for publishing information related to Public Meetings.

**Management Response:** Management disagrees with Auditor's opinion with regards to copies of board minutes being posted online. The law states "to the extent practicable".

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**Finding Number: 2018-A-05.03 OMA Training Requirement Not Met**

**Open Meetings Act designees have not completed the required training.**

**Analysis:** Section 3-213 of Maryland's Open Meetings Act establishes the training requirement portion of the Act. It has four elements: 1) each public entity subject to the Act must designate at least one employee, officer, or member to receive training on the Act requirements, 2) the designee must take the training within 90 days of the designation, 3) as of October 1, 2017, a public body may not meet in a closed session that is subject to the Act unless the public body has designated a member to take the training, and 4) each public body

should retain its own records of compliance with the training requirement. The County is not in compliance with the Open Meetings Act if the training requirement has not been met.

We reviewed a sample of various public boards and commissions to determine that the designated member had completed the required training. We noted that of 19 reviewed, 11 had either not taken the training or could not provide a copy of their certification. The Act states that "Public bodies should maintain records of the designation and of the designee's completion of the course."

Management has recently taken actions to ensure all County employees who are the designee for their respective boards and commissions will be taking the training within the next few months. However, most of the reported designees were not in compliance with the Open Meetings Act training requirement during the audit period.

**Recommendation:** Since new training requirements became effective October 1, 2017, management should take steps to ensure that each board has at least one member that has completed the compliance training as soon as possible.

**Management Response:** Management recognizes the recently enacted training requirements and continues to take the steps to ensure compliance, but remains cognizant that board members are often volunteers.

## **BACKGROUND INFORMATION**

### **PROGRAM DESCRIPTION AND KEY STATISTICS**

There are several State laws that help promote government transparency and accountability. Maryland's Open Meetings Act requires State and Local public bodies to hold their meetings in public, to give the public adequate notice of those meetings, and to allow the public to inspect meetings minutes. Per the Maryland Attorney General's guidance, "The Act's goals are to increase the public's faith in government, ensure the accountability of government to the public, and enhance the public's ability to participate effectively in our democracy." We identified more than fifty (50) boards described by the County Code or County Charter; of those, forty-six (46) are appointed by the County Executive or County Council and were considered within the scope of the project.

Maryland's Public Information Act (PIA) makes most government information available for public inspection, specifies exclusions from disclosure and provides guidelines for how governments must respond to information requests. Again, per the Maryland Attorney General's guidance, "The basic mandate of the PIA is to enable people to have access to government records without unnecessary cost or delay."

Maryland's Annotated Code Title 10, Governmental Procedures, Subtitle 6. Records. requires governments to determine what information should be maintained and for how long and how the information will be stored securely. That information is collected by the State Archives, which also adopts records management regulations for other government agencies to follow, provides storage space and tracks destruction of records that are no longer held by local and state agencies.

### **REVIEW OBJECTIVE, SCOPE AND METHODOLOGY**

The objective of this audit is to determine whether the county has developed appropriate records retention policies and has ensured compliance with public information act, open meetings act, and freedom of information act requirements. The scope of this review is limited to boards, information and records that are the responsibility of the County government. For example, school, college, library and elections boards and their information will not be considered. Criteria for the audit will include Maryland Open Meetings Act, Maryland Public Information Act, County Policies and Procedures and Record Retention laws from State Government Article.

The audit focused on activity during the period of 7/1/2015 through 6/30/2017. Our audit procedures included interviewing personnel, observation and testing. Specifically, we determined which public bodies are identified in the County Code and, for each, we determined whether an individual was responsible for and had been trained in OMA compliance. For a sample of public meetings, we sought to confirm that they were advertised, held and documented in accordance with the law. To evaluate records retention policies, we searched the Maryland State Archives for approved retention schedules and sought to confirm that those schedules were up to date and reflect current practices. When retention schedules were not available, we inquired of departments regarding their internal retention schedules and standards. To evaluate PIA compliance, we reviewed a sample of requests to confirm that the County's responses were timely and appeared to be complete.

Harford County management is responsible for establishing and maintaining effective internal controls. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets and compliance with applicable laws, rules and regulations are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected.

The audit was performed in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.