GO Committee #2
July 15, 2013
Worksession

Please bring your hard copy of OLO Report 2013-6 with the Appendices to the Committee meeting.

MEMORANDUM

July 10, 2013

TO: Government Operations and Fiscal Policy Committee

FROM: Sue Richards, Senior Legislative Analyst
Office of Legislative Oversight

Jacob Sesker, Senior Legislative Analyst

SUBJECT: OLO Report 2013-6, *Municipal Tax Duplication and Revenue Sharing in Montgomery County, MD*

On July 15, 2013, the Government Operations and Fiscal Policy (GO) Committee will hold its third meeting on the County's Municipal Tax Duplication program and its Municipal Revenue Sharing law. The Committee previously discussed these topics on July 16, 2012 and November 5, 2012 when it considered the Final Report of the Municipal Revenue Sharing Task Force Report. Today's meeting has two parts:

- An overview of OLO Report 2013-6, *Municipal Tax Duplication and Revenue Sharing in Montgomery County, MD;* and
- A Committee discussion to provide policy guidance and direction to Council staff about possible amendments to the County's Municipal Tax Duplication law and program.

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I	**Overview of OLO Report 2013-6**	2	©1
II	**Committee Discussion Issues to Provide Policy Guidance**	3	©6

I. HIGHLIGHTS FROM OLO REPORT 2013-6

On June 18, 2013, the County Council released OLO Report 2013-6, *Municipal Tax Duplication and Revenue Sharing in Montgomery County, MD.* The GO Committee requested this study to improve its understanding of municipal tax duplication (MTD) programs before it considers changes to the County's program. The Committee is especially interested in strategies to improve the fairness of the County's program.

At today's worksession, OLO will provide a powerpoint presentation to walk the GO Committee through the report. The Executive Summary is attached at ©1; the full report and appendices are posted online here. Below are some key findings and concepts from the OLO Report.

MTD Programs Generally. OLO found that MTD programs exist to address double taxation issues that are unique to Maryland. State law mandates a tax set-off for seven counties, including Montgomery County. ***It defines a tax set-off as either a tax differential, i.e., a lower County property tax rate within a municipality, or a municipal rebate payment.***

State law anticipates that local county officials will customize the design of their MTD programs to fit local circumstances. Some key decisions that State law delegates to local county officials are:

- The services that are eligible for reimbursement;
- The method(s) and formulas to determine the costs of the reimbursable services;
- The method(s) and formulas to determine the value of the tax set-off; and
- Whether recipients of the tax set-off are County taxpayers who reside in a municipality or their municipal governments.

Finally, both a study from the Institute for Governmental Services at the University of Maryland and a report from the Maryland General Assembly suggest that local officials' MTD program design decisions recognize county shared income tax revenue that the state's shared revenue structure redirects to municipalities.

MTD Programs in Other Counties. Anne Arundel, Frederick and Prince George's counties are three of the seven counties required to have tax set-offs. An in-depth review of their MTD programs found:

- Anne Arundel and Prince George's counties use a tax differential payment method while Frederick County gives its municipalities the option to choose their payment method.

- Anne Arundel and Prince George's counties base the value of their tax differential on net costs attributable to property tax revenues; Frederick County uses formulas that calculate full service costs that are capped by a factor that reflects municipal revenue contributions.

MTD Program in Montgomery County. OLO's review identified several issues with the Couty's current law, administrative structure, and funding history for its MTD program. For example,

- The County's law and decision documents are confusing;
- The County's list of eligible services has inconsistencies and does not encompass all services that currently receive property tax duplication payments;
- The County's formulas are outdated, they lack uniformity and their results are ignored; and
- Confusion exists about the County's basis and underlying rationale for valuing the tax set-off.

An analysis of municipalities' reimbursable service costs, their county shared income tax revenue and their MTD payments indicates that, instead of resolving taxpayer inequities as State law intends, the County's current MTD payments under the State's shared revenue structure may be creating greater disparities. (See Table 5-6 (©5) which shows that, in FY13, the effect of MTD payments was to increase the "over-reimbursement" of reimbursable service costs due to shared county income tax revenues from $19 million to $26.7 million.)

Municipal stakeholders perceive that, despite its good intentions, the MTD program in its current form does not adequately address persistent tax differential issues and that it has an inherently political element. Some of their other specific concerns are that MTD payments do not meet municipal expenses and that no consistent methodology exists for updating the formulas. Participants' suggestions for improvements include efforts to more regularly identify the formula elements and allowing reimbursement payments for non-recurring costs.

II. Discussion Issues to Elicit Policy Guidance for Possible Amendments to the County's MTD Program and its Municipal Revenue Sharing Law

The design of an MTD program balances tradeoffs between municipal and nonmunicipal taxpayer equity, service cost efficiencies and fewer or more County/municipal service partnerships. At its November 2012 worksession, the GO Committee intended that its request for an OLO study would improve its understanding of MTD programs so it could decide whether or how to pursue amendments to the County's law and program.

This section offers a framework to structure a GO Committee discussion of possible changes to the County's Municipal Revenue Sharing law and the administration of its Municipal Tax Duplication program. The discussion framework consists of five policy issues and three illustrative program approaches.

MTD programs are unique for their disparate range of policy tradeoffs. An unusual feature of the State's MTD law is the structure of its tax set-off definition. This split definition produces two distinct program approaches, one that benefits municipal taxpayers and another that benefits municipal governments. A defining characteristic of the County's MTD program is that it has always authorized only a municipal rebate payment.

To help the Committee consider the implications of these disparate program purposes, this framework provides three <u>illustrative</u> program approaches, summarized below, to accompany the five policy issues. Each approach replaces the current full cost basis for valuing the tax set-off with a property tax revenue basis; however, they differ in their choice of payment methods; their level of support for County/municipal service partnerships; and their assumptions about whether a municipal grant program is included as part of an MTD program or not.

A. The **Municipal Rebate Approach** is the most similar to the County's existing program. It maintains the use of only a municipal rebate; however, it would institutionalize the recent practice of recognizing that this payment has two distinct parts – a payment for the value of a tax set-off and an additional grant payment. This approach would incorporate the use of service rates to encourage more shared provider service networks; and it would recognize shared County income tax revenues to determine whether municipalities warranted supplemental grant support to help defray the full cost of their reimbursable services. <u>This approach is most aligned with the OLO Report recommendations.</u>

B. The **Property Tax Differential Approach** is a minimalist MTD program. It replaces the municipal rebate payment with a County property tax differential and discontinues any municipal grant payments to create an overall focus on service cost efficiency and centralizing service delivery with the County. It recognizes a limited role for municipal service partnerships; and it applies the IGS treatment of shared County income tax revenue. (Note that if the IGS test resulted in no municipalities qualifying for an MTD payment, the County would have to discuss whether minimal payments would be required to comply with the State provision for a tax set-off.) <u>This approach envisions greater municipal fiscal self-reliance; it is the most equitable for nonmunicipal taxpayers.</u>

C. The **Hybrid Approach** is a more expansive MTD program. It assumes authorization of both payment methods, i.e., a tax differential and a municipal rebate. It shifts more direct control for shared services' funding to municipalities; however, it also envisions the creation of an administrative structure that encourages multiple shared provider networks. It assumes the establishment of a separate municipal grant program to increase the County's funding support for municipal services. <u>Under this approach, greater municipal fiscal self-reliance is offset by a separate grant program for municipal services.</u>

The chart on the next page displays five policy issues and options. Three columns to the right identify those policy options that align with each program approach. Following the chart is an explanation that provides background for each policy issue and the underlying support or reasoning for the different options.

Municipal Tax Duplication Discussion Framework

Policy Issues and Options	A. Municipal. Rebate Only	B. Tax Diff. Only	C Hybrid
1. *Payment method for the MTD tax set-off*			
A. A municipal rebate payment only, with the display of a tax duplication and a grant payment (Current law and practice.)	✓		
B. A property tax differential only (Eliminate the municipal rebate payment.)		✓	
C. Both a property tax differential <u>and</u> a municipal rebate payment. (Add a property tax differential to current law.)			✓
2. *Cost basis to value the MTD tax set-off*			
A. The <u>full cost (100%)</u> of net service costs.			
B. The <u>property tax share</u> of net service costs.	✓	✓	✓
3. *Recognition of municipal shared County income tax revenue*			
A. Authorize <u>an MTD tax set-off</u> only if a shortfall exists after a municipality's shared County income tax revenues are applied to <u>the property tax share</u> of its eligible service costs. (The IGS approach).		✓	
B. Authorize <u>an MTD municipal grant payment</u> if a shortfall exists after a municipality's shared County income tax revenues are applied to <u>the full cost</u> of its eligible services. (OLO Recommendation #2).	✓		
C. Implement both Option A and Option B.			✓
4. *Limit or encourage shared provider networks and municipal service partnerships*			
A. Authorize a limited number of reimbursable services and recognize municipal expenditures for only full service substitutes.		✓	
B. Institute the use of service ratios, and an annual process and forms to solicit and fund municipal partnership initiatives.	✓		✓
5. *Fund municipal grants as part of the MTD program, discontinue them or establish a separate, stand alone grant program*			
A. Yes, fund municipal grants through the MTD program.	✓		
B. No, discontinue the practice of providing municipal grants through the MTD program.		✓	
C. Establish a separate, stand alone municipal grant program.			✓

Issue 1. ***What payment method does the Committee recommend for the MTD tax set-off: a property tax differential, a municipal rebate payment, or both?***

The definition of a tax set-off in State law offers counties two payment method options:

- A **property tax differential** returns the value of a tax set-off directly to a municipal taxpayer by setting a lower County property tax rate on their property tax bill; and
- A **municipal rebate payment** returns the value of a MTD tax set-off to a municipal government through an intergovernmental transfer payment.

According to MTD program research, property tax differentials assure that individual taxpayers receive the full benefit of the lower rate. Also, putting a lower County property tax rate on the County property tax bill helps create individual taxpayer buy-in for the continuation of an MTD program.

In contrast, a municipal rebate maintains the same county general property tax rate for municipal and nonmunicipal taxpayers. The rebate payment effectively captures revenue collected from municipal taxpayers and transfers it to their municipal government(s). A rebate payment can result in a lower municipal property tax rate but that outcome is difficult to measure. Municipal governments prefer a rebate payment.

State law requires that 7 counties, including Montgomery, provide a tax set-off but it does not specify the payment form. According to the 2012 Tax Set-Off Report published by the Department of Legislative Services,

- Two counties (Allegany and Anne Arundel) provide only a tax differential;
- Three counties (Garrett, Harford and Prince George's counties) provide both; and
- Two counties (Frederick and Montgomery) provide only a rebate.

Note Frederick County has since changed its program and now offers its municipalities the option of a differential or a rebate. (Note: The 11 counties with voluntary tax set-off programs are evenly split: five offer only a differential; five offer only a rebate and one offers both.)

Option 1A. Leave the current law intact i.e., with only a municipal rebate payment, that has both a tax duplication payment and a grant payment.

This option would continue the payment form in the County's current MTD law and continue the display of MTD calculations payments and grants that OMB instituted a few years ago. It has the advantage of administrative simplicity, i.e., providing payments to 20-22 municipal governments is simpler than calculating separate County property tax differentials and their associated County property tax rates for 20-22 municipalities and programming the corresponding 64,600 municipal property tax bills.

Continuing the current system also allows municipal governments (and to a lesser extent the County2X) to foreg the public education effort and administrative process that would be required to implement a system of property tax differentials. The public education effort could be particularly burdensome for municipalities that decide to enact a municipal property tax increase to offset revenue lost from discontinuing the municipal rebate payment.

Option 1B. Substitute a property tax differential for a municipal rebate payment.

This option would replace the municipal rebate payment with a property tax differential. This option switches the underlying purpose of the County's current program so that it only addresses the effects of property tax duplication. Implementing only a municipal tax duplication program would more closely align the County's program with State law, and allow the MTD program to address more directly the taxpayer equity issues (if any) created by the State's service and revenue structures.

The effect of this option is difficult to predict since it would most likely shift taxing responsibility for the shared services the County designates from the County to the municipality. If this happened, higher municipal tax rates would likely absorb the savings a municipal taxpayer would realize from a lower County property tax rate. Alternatively, if municipal officials determine that their constituents' existing property tax burden is too high, the potential shift in taxing responsibility could instead result in fewer municipal services. If a municipality were to decide to discontinue services that were previously reimbursable, the County would become responsible for these services and a County property tax differential would no longer be warranted.

A benefit of this option is that municipal governments would become more fiscally self-reliant since they would have direct control over the funding they need for the services they choose to provide. A municipality could face difficult service cuts to address a decline in revenues if an economic downturn occurred; however, it would be shielded from unexpected reductions in County MTD payments since these payments would no longer exist.

Option 1C. Authorize a property tax differential <u>and</u> a municipal rebate payment.

This option would amend County law to add a property tax differential to the current municipal rebate payment. Like Option IB, this option could increase fiscal self-reliance among municipalities although continuing a municipal rebate payment would mitigate this effect.

This option (and Option 1B) could bring more fiscal accountability to the delivery of shared services since municipalities would bear more responsibility for funding their reimbursable services, and constituents generally have more access and are able to provide closer oversight of their municipal governments. Unlike Option 1B, County support for municipal governments would continue (and perhaps expand) under this option which provides for a separate, stand alone grant program.

If this option tied the value of the property tax differentials to the net costs of reimbursable services and it authorized the use of municipal grants for other purposes, these two payment methods would help clarify the separate purposes of the County's tax duplication and municipal service partnership programs. By comparison, Option IA continues to transfer the combined value under one payment method to municipal governments.

Issue 2. What cost basis does the Committee recommend using to value the MTD tax set-off: the <u>full cost</u> of net service costs or the <u>property tax revenue share</u> of these costs?[1]

OLO's review of MTD research and other counties' programs found two general approaches exist to set the value of tax set-offs.

- One approach uses 100% of the calculated service costs as the basis for the tax set-off value. Frederick County has used this basis continually and Montgomery County has used this basis since 1996.
- Another approach uses the property tax share of calculated service costs to determine the tax set-off value. Anne Arundel and Prince George's counties currently use this basis; Montgomery County used this basis from 1982 to 1996.

[1] Note that this issue only addresses the adjustment to the net service costs, not the formulas to determine net service costs.

Option 2A. Use 100% of net service costs as the basis for valuing the tax set-off.

County formulas currently use this 100% cost basis. An advantage is that it provides a generous level of County support for municipal services. In Montgomery County, where property tax revenues typically account for 35% to 40% of County General Fund revenues, this option generates tax set-off values that are 60% to 65% higher than Option 2B, below.

A drawback to this option in Montgomery County is that when this level of MTD payment is combined with shared County income tax revenues, the over-reimbursement for reimbursable service costs that results actually widens the disparity between municipal and nonmunicipal taxpayers instead of resolving it. (See Table 5-6 at ©5.)

Another issue is affordability and long-term fiscal sustainability. The County has not fully funded the current MTD formula amount since 2009. If the County were to continue the use of the 100% cost basis, either MTD funding would increase by as much as $4 million, assuming the current list of services; or alternatively, if the County wanted to maintain MTD funding at $8 million, the current list of services would have to be curtailed.

Option 2B. Use the property tax revenue share as the basis for valuing the tax set-off.

Use of the property tax revenue share as the basis for valuing the tax set-off aligns more closely with State law requirements than use of the full cost basis. It also produces lower payments and thus a lower overall program cost. Finally, in Montgomery County, it creates a more fair MTD program for nonmunicipal taxpayers because it minimizes the risk that the County's MTD program will widen the disparity between municipal and nonmunicipal taxpayers created by the State's shared revenue structure.

Issue 3. How does the Committee recommend the MTD program recognize the revenue that municipalities receive from shared County income tax revenues?

MTD program documents, including research from the Institute for Government Services and a report from the General Assembly, recommend that jurisdictions' MTD programs account for shared County income tax revenues that municipalities receive under the State's shared revenue structure. When the Maryland Legislative Council Committee on Taxation and Fiscal Matters considered the relationship between the State's shared revenue structure and the MTD program, it recognized the unfairness for nonmunicipal taxpayers. It stated:

> [W]hile some municipal residents are being subject to double taxation, some municipal residents are receiving double benefit from the allocation of non-property tax revenues. In such instances, the residents outside of municipal corporations are paying a higher property tax rate than they should be paying.[2]

IGS states that the State's shared revenue structure has "a substantial impact" upon the justification for, and size of, tax differentials. It recommends "In order to justify a tax differential from the county, a municipality must provide a sufficient number of services to offset the state shared revenue that it receives." And, it states,

> If a municipality provides very few services, it is possible that the state-shared revenues received by the municipality to help it fund these services will exceed the equivalent amount of county property tax levied against municipal residents to fund a parallel county service. In this case, no tax differential would be awarded.[3]

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[2] OLO Report 2013-6, Appendix E, ©67.
[3] OLO Report 2013-6, Appendix C, ©26.

To date, the County's MTD program structure has not accounted for shared County income tax revenue. A comparison of shared County income tax revenues and municipal expenditures for reimbursable shared services that uses 2011 data and current services and formulas) shows:

- All municipalities currently receive shared County income tax revenue that exceeds the property tax share of their reimbursable services; and
- All but two municipalities, i.e., Takoma Park and Washington Grove, receive shared County income tax revenue that exceeds the full cost of their reimbursable services (See Table 5-6, at ©5).

This analysis suggests that the concerns about nonmunicipal taxpayer inequities that the General Assembly identified in 1970 exist in Montgomery County today, and that the County's MTD program could be re-structured to make it more fair for nonmunicipal taxpayers. The Committee may wish to discuss the following options:

Option 3A. Authorize an MTD tax set-off only if a shortfall exists after a municipality's shared County income tax revenues are applied to the property tax share of its eligible service costs. (The IGS approach).

This option incorporates shared County income tax revenue directly into the MTD program formula to calculate the tax set-off amount. It would amend the County's MTD program to establish a formula that compares the shared County income tax revenue to the property tax share of a list of reimbursable services and their calculated County costs. (See the table at ©6 for illustrative results based on 2011 data and current formulas.) The County would authorize an MTD tax set-off only if a shortfall exists after its shared County income tax revenues are applied to the property tax share of its eligible service costs.

Since this option compares the full value of the shared County income tax revenue to the property tax share of reimbursable service costs, it goes the furthest to "recapture" shared County income tax revenues that the State automatically redirects to municipal governments to fund services of their choosing. It is the most fair for nonmunicipal taxpayers since it maximizes the County's ability to correct for nonmunicipal taxpayer inequities created by the combination of the State's shared revenue structure, the wealth base of the County's municipalities and the State mandate for a tax set-off.

If this option resulted in no MTD payments, the County would have to address how it intended to comply with the mandate for a tax set-off in State law. Retaining the administrative structure for a MTD program, e.g., a list of services and cost of service formulas, and valuing the tax set-off at the property tax share would provide a method to identify changing service patterns that may create a future municipal property tax duplication issue.

Option 3B. Authorize an MTD municipal grant payment if a shortfall exists after a municipality's shared County income tax revenues are applied to the full cost of its eligible services. (OLO Recommendation #2)

This option layers recognition of shared County income tax revenue on top of the MTD program formulas used to determine tax set-off amounts. It would amend the County's MTD program to add a grant payment in addition to the current set of formulas that are used to determine tax set-offs. Under this option, the County would commit to fund grant payments based on the gap between a municipality's shared County income tax revenues and the full cost of the eligible services it provides. Since this option applies shared County income tax revenues to costs that can be 60% to 65% higher than those in Option 1, it recaptures less shared County income tax revenue than Option 3A and it does not go as far to address the nonmunicipal inequities of the State's shared revenue structure.

Option 3C. Implement both Option A and Option B.

A unique feature of the County's MTD law and program to date is that it has been characterized and operated solely as a municipal revenue sharing program. This intergovernmental transfer approach meets the needs of County and municipal officials; however, it can inadvertently overlook opportunities to consider service cost economies, service coordination, tax duplication, and tax equity issues. This option would correct this structural oversight by amending the County's MTD program to separately consider and calculate the requirement for a tax set-off in State law and the provision for municipal revenue sharing in County law.

Issue 4. Does the Committee want the MTD program to limit or encourage shared provider service networks and municipal service partnerships?

State law offers counties an opportunity to specify the number and types of services it chooses to provide through shared provider networks with its municipalities. And, procedural provisions in State law, e.g. to meet and confer, envision annual opportunities for counties and municipalities to coordinate delivery and funding of reimbursable shared services as part of their budget cycles.

To date, the County has opted for a limited number of shared service networks and a static administrative structure. A review of County/municipal expenditure data shows current spending patterns favor the separate provision of non-reimbursable shared services over jointly provided reimbursable services, and that few MTD administrative practices exist to update the list of reimbursable services or address and resolve coordination issues. Specifically,

- The composite profile of County General Fund and corresponding municipal expenditures shows reimbursable services combined account for roughly 30% ($210M) of all shared services expenditures while non-reimbursable service expenditures, i.e. those services that the County and municipalities deliver separately, account for 70% ($481M) of this total.

- Currently, County law and the administration of its MTD program lack concepts and practices that support the creation of a fine-grained and responsive collaborative service structure. As an example, the focus group convened for the OLO Report raised concerns about the lack of a structure to raise and resolve errors and issues.

If the Committee wants to expand the number of services the County offers through shared provider networks, it could adopt the use of service rates that recognize municipalities' partial service level efforts. This would require a change in County law.

If the Committee wants to change the administrative structure for the County's MTD program, it may want to consider some of the administrative practices that Prince George's County uses such as annual application forms and guides; annual submission and decision deadlines; or an appeal board. These strategies would help structure an ongoing dialogue between the County and its municipalities about jointly provided shared services.

Option 4A. Authorize a limited number of reimbursable services and recognize municipal expenditures or only full service substitutes.

This option maintains the current program structure and practice by limiting the number of reimbursable services and only recognizing municipal expenditures that fully substitute for a County service as eligible for reimbursement. An advantage of this approach is that it provides a mechanism to limit the County's overall program costs. A drawback is that it may result in greater service inefficiencies for municipal taxpayers.

In light of the feedback OLO received from the stakeholder's focus group, if this option is pursued, the Committee may still want to consider establishing some administrative procedures that specify a method for keeping the list of the services municipalities are beginning or discontinuing up-to-date, and a process for municipalities can use to have their issues and concerns addressed and resolved in a timely fashion.

Option 4B. Institute the use of service rates, and other procedural and administrative practices, e.g., a service guide, application forms or an appeals process, to solicit and fund municipal partnership initiatives.

This option would implement MTD program strategies, plus other procedural and administrative practices to establish a structure for the County and interested municipalities to coordinate funding and delivery of their shared services on an ongoing basis.

The advantages of an MTD program structure that encourages multiple County/municipal service partnerships are similar to the advantages of a distributed shared service network or an open architecture system. The County benefits from the contribution municipalities make to a countywide distributed service network and the local knowledge municipalities bring to the job. Municipal governments benefit from the visibility they receive serving as on-site agents and from the opportunity to provide highly localized, customized services.

To ensure a successful collaboration, an MTD program must provide the support and structure of forms, procedures and dates so officials regularly meet and confer to discuss and decide their service initiatives and funding responsibilities. Since the County's MTD program currently operates with a limited list of services and minimal administrative support, if the Committee endorses the development of more partnerships, it should expect a corresponding increase in the level of required administrative support.

One drawback of this option is that it can be difficult to align different service activities, especially when a municipality can afford high levels of effort compared to more streamlined County programs. Another drawback is that an MTD program can become fiscally unsustainable if it takes on too many partnership initiatives.

Finally, if the Committee decides to reimburse on a property tax share basis instead of a full cost basis, the Committee's expectation of establishing more municipal partnerships at a reduced reimbursement rate may be a drawback as well.

Issue 5. Does the Committee want to 1) establish a practice of funding grants for municipal services and projects as part of its MTD program, 2) establish a separate municipal grant program or 3) address municipal funding requests on an as-needed, by request basis?

In the past two years, as the County's formulas for valuing its tax set-offs became unsustainable, the County adopted an informal practice of characterizing MTD program appropriations as part payment and part grant. OLO's recommendations, which call for changes to the formulas that value the tax set-off and the establishment of a municipal grant program, would continue this conceptual approach.

Option 5A. Yes, fund municipal grant support through the MTD program.

The advantages of combing a grant program and an MTD program are that the grant portion provides resources to address issues created by the wealth disparities that exist among the County's municipalities. A grant program can also provide a source of support for County service initiatives or municipalities' non-recurring expenses by transferring wealth from nonmunicipal to municipal residents.

Option 5B. No, discontinue the practice of providing municipal grant support through the MTD program.

MTD program research cautions that MTD programs are not envisioned to fully cover municipalities' expenditures for their reimbursable services nor are they the sole source of County support for municipal governments. The Municipal Revenue Sharing Task Force Report identifies the County's support for municipal elections, insurance, certain police services and County funding for municipal projects as examples of support provided to municipalities at little or no cost.[2]

No requirement exists in State or County law that requires an MTD program to have both a set of formulas to determine tax set-off payments and a related grant program. And, in fact, an unintended consequence of this current practice may be greater inequity between nonmunicipal and municipal taxpayers.

Option 5C. Establish a separate, stand alone municipal grant program

This option proposes a stand alone municipal grant program that would operate separately from the MTD program. It would have the advantages in clarity and transparency that come with a streamlined, single focus MTD program, while also providing funds for an extensive system of service partnerships.

LIST OF ATTACHMENTS

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[2] Municipal Revenue Sharing Task Force Report, pp. 23 to 25.

OFFICE OF LEGISLATIVE OVERSIGHT REPORT 2013-6: EXECUTIVE SUMMARY
JUNE 18, 2013

This OLO report responds to the County Council's request to better understand municipal tax duplication programs and provide ideas to improve the County's program. It reviews research from the Institute for Government Services (IGS) and the Maryland Municipal League (MML) and other counties' programs.

Purpose of Municipal Tax Duplication Programs

Under Maryland's governance structure, counties and municipalities have concurrent power to levy real property taxes and have home rule authority to independently decide the services they deliver. These conditions can result in a municipal taxpayer being taxed twice for services he or she receives only once. As MML explains:

> Double taxation exists (1) when a county and a municipality within that county provide similar services financed with property tax revenues, and (2) when the county does not provide those services within the municipal corporate limits. In such cases, municipal property owners pay taxes to both the municipal and county governments for a service (or services) they receive only from the municipality.

Municipal tax duplication programs exist to resolve these double taxation inequities. Counties identify services that give rise to double taxation, develop methods and formulas to determine the value of those services (often referred to as a "tax setoff"), and then decide whether to resolve the double taxation through a rebate payment to the municipal government or through a tax differential (i.e., setting a lower county property tax rate for municipal taxpayers).

State and County Municipal Tax Duplication Law

State law establishes a framework for local tax duplication programs, and specifically requires Montgomery County (and six other Maryland counties) to establish reimbursement programs. The State law leaves decisions about formulas and payment methods to local officials – requiring local governing bodies to meet and confer about county property tax rates in municipalities - but mandates that a county's determination of tax setoff value consider the extent of funding from property tax revenues.

County law establishes a municipal reimbursement program. It specifies qualifying conditions to determine services eligible for reimbursement; assigns responsibility for determining tax setoff values to the county executive; specifies that tax setoff values must approximate the amount of municipal tax revenues and be limited to the amount the county would expend for the eligible services; provides for a rebate payment (but not a tax differential); and limits funding to the council appropriation.

Service Group Definitions

The administration of a municipal property tax duplication program recognizes four distinct service groups:

- County-only services are mandatory services that municipalities cannot provide by law such as K-12 education, community colleges, health services, and corrections.
- Shared Services are discretionary services that both counties and municipalities can provide and thus may create tax duplication issues such as water and sewer, police and fire protection, parks and recreation services, street and highway maintenance, planning and zoning, and solid waste removal.
- Reimbursable Services are shared services that meet the conditions for tax duplication and are eligible for reimbursement from the County.
- Non-reimbursable Services are services uniquely provided by a county or municipality or internal services such as human resources or finance that exist only because the government itself exists.

County General Fund and Corresponding Municipal Service Expenditures

In 2011, County General Fund expenditures for were $1.8 billion for "county-only" services and $585.7 million for "shared services". The County's 22 municipalities spent $105.5 million on shared services in 2011, including $11.3 million on reimbursable services and $94.1 million spent on non-reimbursable services.

County General Fund and Select Municipal Expenditures by Service Type, 2011

Service Type	County General Fund Expenditures	Municipal Operation Fund Expenditures[1]	Total Expenditures
County-Only Services	$1.8 billion	--	$1.8 billion
Board of Education	$1.422.6 billion		$1.422.6 billion
Health and Social Services	$155.7 million		$155.7 million
Community College	$102.5 million		$102.5 million
Corrections	$62.9 million		$62.9 million
All Other State Mandates	$57.6 million		$57.6 million
Shared Services	$585.7 million	$105.5 million	$691.2 million
Reimbursable	$198.4 million	$11.3 million	$210.0 million
Non-Reimbursable	$387.3 million	$94.1 million	$481.4 million
Total	**$2.4 billion**	**$105.5 million**	**$2.5 billion**

Source: Montgomery County Uniform Financial Report, DLS Local Government Finances Handbook

Municipal Tax Duplication Payments and the State's Shared Revenue Structure

In 2011, the $7.8 million tax duplication payment that the County made to cover all municipal reimbursable services (including park maintenance services) totaled $11.5 million, leaving a shortfall of $3.8 million. However, besides the tax duplication payment, the State's shared revenue structure re-directs 17% of county income taxes paid by municipal taxpayers to their municipal governments to fund municipal services. In 2011, municipal governments received $30.7 million in shared county income tax revenue, and together the tax duplication payment and shared county income revenue totaled $38.5 million. This combined county revenue accounted for 36% of the $105.5 million in municipal shared services' spending.

In 1970, the Committee on Taxation and Fiscal Matters recommended against establishing a statewide municipal tax duplication law, stating in part, that "the existing requirements for the counties to make certain revenues available to municipal corporations have created instances where municipal corporations are receiving a disproportionate share of revenues for the type of services provided."

In its review of this issue, IGS stated "If a municipality provides very few services, it is possible that the state-shared revenues received by the municipality to help it fund these services will exceed the equivalent amount of county property tax levied against municipal residents to fund a parallel county service. In this case, no tax differential would be awarded." (emphasis added)

OLO's analysis of municipal full reimbursable service costs and their shared county income tax revenues in FY13 shows that under this approach only two County municipalities would qualify for a rebate payment.

[1] Since these are only expenditures that parallel County General Fund services, they exclude parks and recreation.

2

Issues with the County's Current Municipal Tax Duplication Program

Current List of Reimbursable Services and Municipal Providers

Reimbursable Service	Current Municipal Providers	% of County Served by Municipal Providers
Animal Control	Gaithersburg and Rockville	12.4%
Board of Appeals	Town of Chevy Chase	0.3%
Crossing Guards	Takoma Park	1.7%
Hearing Examiner	Town of Chevy Chase	0.3%
Human Rights	Rockville	6.3%
Park Maintenance	Chevy Chase Section 3, Town of Chevy Chase, Friendship Heights, Kensington, Takoma Park	2.8%
Police	Takoma Park	1.7%
Road Maintenance	All Except Barnesville	13.4%
Senior Groceries	Friendship Heights	0.5%
Senior Transportation	Gaithersburg, Friendship Heights, Rockville	12.9%

Current County law creates confusion about service reimbursements and the County's overall MTD policy. Inconsistencies among the law, task force reports and Council resolutions create ambiguity about the intent of the County's program. Two examples of issues with the current County law are: 1) it allows the County to not reimburse for a service if it determines it would not provide the service in the future; and 2) it fails to recognize service rates, effectively precluding municipal service partnerships.

Several disconnects exist between the County's current list of reimbursable services, its service funding structures, its rebate payments and its municipal provider services. For example, 1) the County General Fund reimburses for park maintenance services that are funded through the Metropolitan District; 2) land use hearings are reimbursed for one municipality but not others; 3) Takoma Park receives reimbursements for library and police services (authorized in the County Code) separate from the municipal tax duplication program; and 4) police service rebates that were formerly included are currently excluded.

The current formulas are outdated, lack uniformity and their results are ignored. Both the formulas used to administer the program and the practice of not fully funding the formula results have been a source of ongoing, persistent problems since the seventies. In FY13, County funding was $3.8 million below the formula amount. The current formulas reflect an ad hoc assortment of agreements developed over time. This approach stands in contrast to IGS' recommended methodology and other county programs where a consistent set of factors is uniformly applied to determine municipal tax differentials or rebate payments.

Municipal stakeholders perceive that the program does not adequately address persistent tax differential issues and that it has an inherently political element. Municipal stakeholders suggested that the cost formulas are not realistic and held widely shared concerns that no consistent methodology exists for revising or updating the formulas. Stakeholders suggested that the County allow reimbursements for non-recurring costs, establish an "audit process" for formulas, and release relevant information ahead of the County's budget release so municipalities would have an opportunity to locate and correct potential errors.

3

OLO Recommendations

As the County's local governing body, decisions about the design of a Municipal Tax Duplication program, including methodologies to determine reimbursable services, formulas to determine tax set-off values, and responsibilities for program administration, rest with the Council. OLO's recommendations offer the Council an opportunity to create a more fiscally sustainable program while establishing a structure that strengthens County/municipal partnerships, improves transparency and addresses equity for nonmunicipal taxpayers.

Recommendation #1: **Implement nine revisions to strengthen the fairness, uniformity and sustainability of the County's municipal tax duplication program.**

Revision A: Revise the municipal tax duplication payment formula to reimburse on a property tax cost basis to better align the County's program with State law and the State's shared revenue structure.

Revision B: Give municipalities and their taxpayers the option to make a one-time election for either a County property tax rate differential or a property tax share municipal rebate payment.

Revision C: Fund park maintenance service rebates with revenue from the Metropolitan District, or redraw the Metropolitan District boundaries to eliminate park maintenance reimbursement payments from the MTD program.

Revision D: Transfer the Takoma Park Library rebate, currently authorized as a separate payment in County law, into the municipal tax duplication program.

Revision E: Include land use administrative hearings as reimbursable services under the municipal tax duplication program for all municipalities in the County that provide these services.

Revision F: Replace the current cost of service formulas with a methodology that uses available activity and/or relevant program data to develop unit cost factors for crossing guards, human relations and library services.

Revision G: Revise the methodology for the transportation cost of service calculation to determine the County's net costs per mile using data from the Local Highway Finance Report filed annually with the State.

Revision H: Provide a single reimbursement payment for Takoma Park police services through the municipal tax duplication program by eliminating the stand-alone payment authorized in the County Code. Revise the current repayment methodology to utilize a unit cost formula.

Revision I: Incorporate the use of service rate factors as part of the County's municipal tax duplication program, and re-institute reimbursement for police patrol services in Chevy Chase Village, Gaithersburg and Rockville under the partial service rate model.

Recommendation #2: **Establish a Municipal Grant Program for non-recurring expenses and other initiatives. Structure the program to cap annual funding at an amount equal to the annual appropriation for the MTD program and require matching contributions.**

A grant program could help fund municipalities' non-recurring expenses, provide seed money for shared County/municipal service initiatives and fund payments to help low wealth municipalities cover their reimbursable service costs. Grants to address funding shortfalls between a municipality's full cost of reimbursable services and its shared county income tax revenues could be a first claim on available funds. To maintain equity and protect nonmunicipal taxpayer interests, annual funding should be capped and the program should require a matching municipal contribution.

(4)

Table 5-6: Comparison of Municipal Reimbursable Shared Service Costs, County Income Tax Revenue and MTD Payments

Municipality	A Reimbursable Shared Service Costs (100%)	B Distributed County Income Tax Revenue	C Difference (B-A)	D FY13 MTD Payment	E Effect of MTD Payment (C+D)
Barnesville	--	$46,781	**$46,781**	--	**$46,781**
Brookeville	$14,837	$111,675	**$96,838**	$6,794	**$103,632**
Chevy Chase Town	$233,167	$2,174,114	**$1,940,947**	$130,297	**$2,071,244**
Chevy Chase View	$75,743	$325,909	**$250,166**	$41,275	**$291,441**
Chevy Chase Village	$180,893	$1,414,503	**$1,233,610**	$100,524	**$1,334,134**
Chevy Chase, Sec 5	$35,644	$352,674	**$317,030**	--	
Chevy Chase, Sec 3	$53,735	$325,420	**$271,685**	$30,796	**$302,481**
Drummond	$8,465	$52,798	**$44,333**	$4,613	**$48,946**
Friendship Heights	$100,478	$943,010	**$842,532**	$82,625	**$925,157**
Gaithersburg	$2,085,440	$8,601,966	**$6,516,526**	$1,168,467	**$7,684,993**
Garrett Park	$88,954	$242,280	**$153,326**	$47,593	**$200,919**
Glen Echo	$38,094	$67,925	**$29,831**	$20,762	**$50,593**
Kensington	$229,256	$464,332	**$235,076**	$137,523	**$372,599**
Laytonsville	$23,837	$137,728	**$113,891**	$12,991	**$126,882**
Martin's Additions	$49,233	$353,851	**$304,618**	$26,832	**$331,450**
North Chevy Chase	$43,886	$145,633	**$101,747**	$23,918	**$125,665**
Oakmont	$6,015	$45,236	**$39,221**	$3,278	**$42,499**
Poolesville	$386,513	$1,014,387	**$627,874**	$210,634	**$838,508**
Rockville	$4,065,121	$11,048,348	**$6,983,227**	$2,116,671	**$9,099,898**
Somerset	$97,151	$476,071	**$475,974**	$52,560	**$528,534**
Takoma Park	$3,683,611	$2,330,225	**($1,353,386)**	$3,513,643	**$2,160,257**
Washington Grove	$82,426	$67,660	**($14,766)**	$44,922	**$30,156**
Total	**$11,582,499**	**$30,742,526**	**$19,160,027**	**$7,776,718**	**$26,936,745**

Source: OLO and DLS Local Government Finances Handbook, 2011

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TAX DIFFERENTIAL APPROACH - Application of IGS Methodology Using FY13 Formula Results and DLS Shared County Income Tax Revenue Data

Municipality	A Reimbursable Shared Service Costs (100%)	A1 ADJUSTED Reimbursable Shared Service Costs (40%)	B Distributed County Income Tax Revenue	C1 Difference (B-A1)	D MTD Payment?
Barnesville	--		$ 46,781	$ **46,781**	No
Brookeville	$ 14,837	$ 5,935	$ 111,675	$ **105,740**	No
Chevy Chase Town	$ 233,167	$ 93,267	$ 2,174,114	$ **2,080,847**	No
Chevy Chase View	$ 75,743	$ 30,297	$ 325,909	$ **295,612**	No
Chevy Chase Village	$ 180,893	$ 72,357	$ 1,414,503	$ **1,342,146**	No
Chevy Chase Sec 5	$ 35,644	$ 14,258	$ 352,674	$ **338,416**	No
Chevy Chase Sec 3	$ 53,735	$ 21,494	$ 325,420	$ **303,926**	No
Drummond	$ 8,465	$ 3,386	$ 52,798	$ **49,412**	No
Friendship Heights	$ 100,478	$ 40,191	$ 943,010	$ **902,819**	No
Gaithersburg	$ 2,085,440	$ 834,176	$ 8,601,966	$ **7,767,790**	No
Garrett Park	$ 88,954	$ 35,582	$ 242,280	$ **206,698**	No
Glen Echo	$ 38,094	$ 15,238	$ 67,925	$ **52,687**	No
Kensington	$ 229,256	$ 91,702	$ 464,332	$ **372,630**	No
Laytonsville	$ 23,837	$ 9,535	$ 137,728	$ **128,193**	No
Martin's Additions	$ 49,233	$ 19,693	$ 353,851	$ **334,158**	No
North Chevy Chase	$ 43,886	$ 17,554	$ 145,633	$ **128,079**	No
Oakmont	$ 6,015	$ 2,406	$ 45,236	$ **42,830**	No
Poolesville	$ 386,513	$ 154,605	$ 1,014,387	$ **859,782**	No
Rockville	$ 4,065,121	$ 1,626,048	$ 11,048,348	$ **9,422,300**	No
Somerset	$ 97,151	$ 38,860	$ 476,071	$ **437,211**	No
Takoma Park	$ 3,683,611	$ 1,473,444	$ 2,330,225	$ **856,781**	No
Washington Grove	$ 82,426	$ 32,970	$ 67,660	$ **34,690**	No
Total	$ **11,582,499**	$ **4,633,000**	$ **30,742,526**	$ **26,109,526**	

Source: OLO and DLS Local Government Finances Handbook, 2011

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GEN'L OP. EXPENDITURES; MTD FORMULA RESULTS; MTD PAYMENTS AND SHARED COUNTY INCOME TAX REVENUES

Municipalities	DLS 2011 (Genl Ops)	FY13 MTD Formula	FY13 MTD Payment	MTD Formula %	MTD Payment %	Shared County Income Tax	%
Barnesville	$ 52,494	$ -		0%	0%	$ 46,781	89%
Brookeville	$ 128,178	$ 14,837	$ 6,794	12%	5%	$ 111,675	87%
Chevy Chase Town	$ 2,779,384	$ 233,167	$ 130,297	8%	5%	$ 2,174,114	78%
Chevy Chase View	$ 392,946	$ 75,743	$ 41,275	19%	11%	$ 325,909	83%
Chevy Chase Village	$ 6,592,517	$ 180,893	$ 100,524	3%	2%	$ 1,414,503	21%
Ch Ch Sec 3	$ 347,509	$ 53,735	$ 30,796	15%	9%	$ 325,420	94%
Ch Ch Sec 5	$ 525,104	$ 35,644		7%	0%	$ 352,674	67%
Drummond	$ 73,917	$ 8,465	$ 4,613	11%	6%	$ 52,798	71%
Friendshp Hts	$ 1,958,343	$ 100,478	$ 82,625	5%	4%	$ 943,010	48%
Gburg Op	$ 37,840,758	$ 2,085,440	$ 1,168,467	6%	3%	$ 8,601,966	23%
Garrett Park	$ 1,016,339	$ 88,954	$ 47,593	9%	5%	$ 242,280	24%
Glen Echo	$ 223,786	$ 38,094	$ 20,762	17%	9%	$ 67,925	30%
Kensington	$ 1,356,251	$ 229,256	$ 137,523	17%	10%	$ 464,332	34%
Laytonsville	$ 153,810	$ 23,837	$ 12,991	15%	8%	$ 137,728	90%
Martin's Addition	$ 425,951	$ 49,233	$ 26,832	12%	6%	$ 353,851	83%
North Chevy Chase	$ 186,461	$ 43,886	$ 23,918	24%	13%	$ 145,633	78%
Oakmont	$ 36,879	$ 6,015	$ 3,278	16%	9%	$ 45,236	123%
Poolesville	$ 2,468,350	$ 386,513	$ 210,634	16%	9%	$ 1,014,387	41%
Rockville	$ 64,992,904	$ 4,065,121	$ 2,116,671	6%	3%	$ 11,048,348	17%
Somerset	$ 819,493	$ 97,151	$ 52,560	12%	6%	$ 476,071	58%
Takoma Pk	$ 23,455,984	$ 3,683,611	$ 3,513,643	16%	15%	$ 2,330,225	10%
Wash Grove	$ 534,988	$ 82,426	$ 44,922	15%	8%	$ 67,660	13%
Total Muni Exp	**$ 146,362,346**	**$ 11,582,499**	**$ 7,776,718**	8%	5%	**$ 30,742,526**	21%

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			FY2011 Local Government Expenditure Shares by Function: Montgomery County Municipal Governments and Special Districts: Operating Budgets																			Total
Functional Exp. Category	Barnesville	Brookeville	CCTown	CC3	CC5	CC View	CCVill.	Drumm	Friendshp H	Gburg	Garrett P	Glen Ech	Kensingto	Laytonsv	Martin'	NorthCC	Oakmo	Poolesville	Rockville	Somerset	Takoma	WGrove	Total
General Government	68%	50%	43%	51%	60%	35%	21%	9%	48%	24%	36%	65%	49%	59%	61%	25%	37%	42%	29%	27%	27%	27%	28%
Public Safety			13%	1%	1%	5%	30%		5%	26%			2%					1%	21%	5%	25%		22%
Police			13%	1%	1%	5%	9%		0%	19%									17%	2%	23%		17%
Fire																							
Corrections																							
Other							21%		5%	7%			2%					1%	4%	3%	2%		5%
Public Works	29%	30%	25%	44%	22%	53%	34%	84%	25%	18%	41%	35%	41%	40%	39%	60%	61%	43%	8%	21%	14%	24%	15%
Transportation	15%	20%	12%	9%	8%	24%	31%	67%	24%	12%	27%	14%	31%	17%	20%	12%	54%	27%	8%	7%	9%	11%	11%
Sewer/Solid Waste	14%	10%	13%	35%	14%	28%	4%	17%	1%	6%	14%	22%	10%	23%	19%	48%	7%	16%		14%	4%	14%	4%
Other																							
Education																							
Public Schools																							
Community Colleges																							
Libraries																							
Health/Social Serv																							
Health																							
Social Services																							
Parks and Recreation		1%	12%		15%	3%	6%	7%	11%	22%	6%		3%		1%	15%	2%	8%	24%	38%	8%	46%	19%
Natural Resources																							
Comm/EconDev							0%		1%	3%	0%								6%	2%	3%		4%
CommDev&PublicHsg										2%	0%										3%		4%
EconDev										1%	0%												0%
Miscellaneous	2%	1%	7%	4%	1%	4%	9%		11%	7%	10%		5%	1%				6%	1%	7%	19%	3%	6%
Debt Service		18%																	10%		5%		5%
Principal		15%																	7%		4%		4%
Interest		3%																	3%		1%		1%
Intergovernmental																							
TOTAL	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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Maryland Municipal League Survey of Municipal Services 2010

Municipality Name	Services	Anim. Control		Bus System	Cable System	Comm. Code Enf.	Res. Code Enf.	Comm. Alert System	Senior Cntr.	Swim Pool	Water System	Info. Hotline	Dog Park	Econ. Dev. Staff	Fire Prot. Pd.	Vol. Fire Dept.	Golf Course	Grants Wrt. Staff	Gym.Public	Hist. Dist. Staff	Human Res. Comm.	Ice Rink	Mun. Website	Elec. Newsletter	Paper Newsletter	Online Bill Pmt.	Online Licensing	Online Permitting	Online Rec. Sign up	P&R staff	P&Z Staff	Police Prot.	WiFi area	Parking Fac.	Parking Meters	Public Works Dept.	Curbside Recycling	Elec. Recycling	Leaf Recycling	Rental Hs. Licensing	Roadside Tree Prgm.	Sediment Control Prgm.	Skate-board Pk.	Snow Removal.	Social Serv. Prgm.	SW Collection System	SW Mgmt. Pgm.	Streetlights	Street Main.	Tourism Staff	Trash Collection	Waste Water Treatmt Plant
Barnesville	6																						1	1	1												1											1			1	
Brookville	13					1	1																1	1	1						1			1			1				1			1				1	1		1	
Chevy Chase	13						1					1											1		1						1	1					1	1	1		1			1					1		1	
Chevy Chase, Section 3	6																						1		1														1									1	1		1	
Chevy Chase, Section 5	7																																				1		1		1			1				1	1		1	
Chevy Chase View	13						1																1		1			1									1	1	1		1	1		1				1	1		1	
Chevy Chase Village	15						1																1	1	1	1		1			1	1				1	1		1		1			1					1		1	
Friendship Heights *	14				1				1	1													1	1	1			1	1												1			1	1			1	1		1	
Gaithersburg	33	1			1	1	1	1	1	1		1	1	1			1	1	1	1			1	1	1				1	1	1	1		1		1	1		1	1		1	1	1	1		1	1	1		1	
Gaithersburg																																																				
Garrett Park	11																						1											1		1	1		1		1			1		1		1	1		1	
Glen Echo	10							1	1															1	1												1		1					1				1	1		1	
Kensington	16					1	1	1															1	1	1									1		1	1		1		1			1		1		1	1		1	
Laytonsville	12						1													1			1								1						1	1	1		1			1				1	1		1	
Martin's Addition*	17				1		1	1															1	1	1			1			1					1	1		1		1			1			1	1	1		1	
North Chevy Chase	9																						1		1			1									1		1		1							1	1		1	
Oakmont*	0																																																			
Poolsville	16					1	1				1			1									1		1	1											1	1					1	1		1		1	1	1		1
Rockville	38	1	1		1	1	1	1	1	1	1	1	1	1			1		1	1			1	1	1	1			1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1		1	
Rockville																																																				
Rockville																																																				
Rockville																																																				
Somerset	15						1	1		1													1	1	1							1					1		1		1	1		1				1	1		1	
Takoma Park	30						1	1	1					1					1				1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1		1		1	1	1	1		1	
Washington Grove	10								1														1		1												1		1		1			1				1	1		1	
Total/Services/Town		2	1	0	4	5	12	7	6	4	2	3	2	4	0	0	2	1	3	3	0	0	18	11	17	4	1	6	4	3	8	6	2	5	2	7	18	6	#	3	#	5	3	#	3	5	3	18	19	1	19	1

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