



Department of Legislative Services
Office of Legislative Audits

Fraud Investigation Unit Update and Results

Presentation to Joint Audit and Evaluation Committee

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December 8, 2020



Fraud Investigation Unit - History

- 2002 – The Joint Audit Committee instructed OLA to implement a hotline and web referral process for the reporting of allegations of fraud, waste, and abuse in State government operations.
- 2003 – OLA’s hotline and web referral process were launched with an expected call volume of 200 calls per year but as noted on page 6, actual call volume has consistently exceeded expectations.
- 2016 – OLA dedicates a second employee to the hotline.
- 2020 – OLA dedicates a third employee to the hotline and establishes the Fraud Investigation Unit (FIU).



Fraud Investigation Unit (FIU) – Responsibilities

FIU operations include both administrative and investigative activities as depicted in the following tables.

Administrative Operations
Fraud Hotline Administration <ul style="list-style-type: none">• Call Intake• Initial Research, Assessment, & Recommended Actions• Allegation Referrals
Allegation Due Diligence <ul style="list-style-type: none">• Research• Validity & Risk Assessment• Recommended Actions• Approach Development
Outreach & Education <ul style="list-style-type: none">• Agency Outreach• Training & Development• Presentations• FIU Newsletter

Investigative Operations
Audit Support <ul style="list-style-type: none">• Allegation Approach Development• Procedural & Testing Guidance• Finding Development• Vendor & Employee Research• Transaction Analyses• Specialized Reports
Special Investigations <ul style="list-style-type: none">• Planning & Conducting Investigations• Referrals to Prosecutorial Agencies
Fraud Brainstorming & Risk Assessment <ul style="list-style-type: none">• Brainstorming• Allegation Risk Assessment• Assessment of High-Risk Areas



FIU Administrative Operations - Hotline Administration

- Allegations are received by phone, web, referral, mail, and from OLA auditors in the field.
- Callers are informed that the information provided is considered confidential, and are provided with information about the State's "whistleblower" laws if reassurance is needed.
- Investigative auditors (certified fraud examiners) handle calls during business hours in accordance with established procedures.
- All allegations are assessed for credibility, and due diligence is performed before field investigations are initiated.
- Allegations are 1) investigated by OLA – either as part of a regularly scheduled audit or as a special audit 2) referred to applicable State agencies, or 3) not pursued.



FIU Administrative Operations - Referrals to State Agencies

Callers who report allegations that would be more appropriately handled by other agencies are referred to the applicable agencies for assistance. Example of these referrals include:

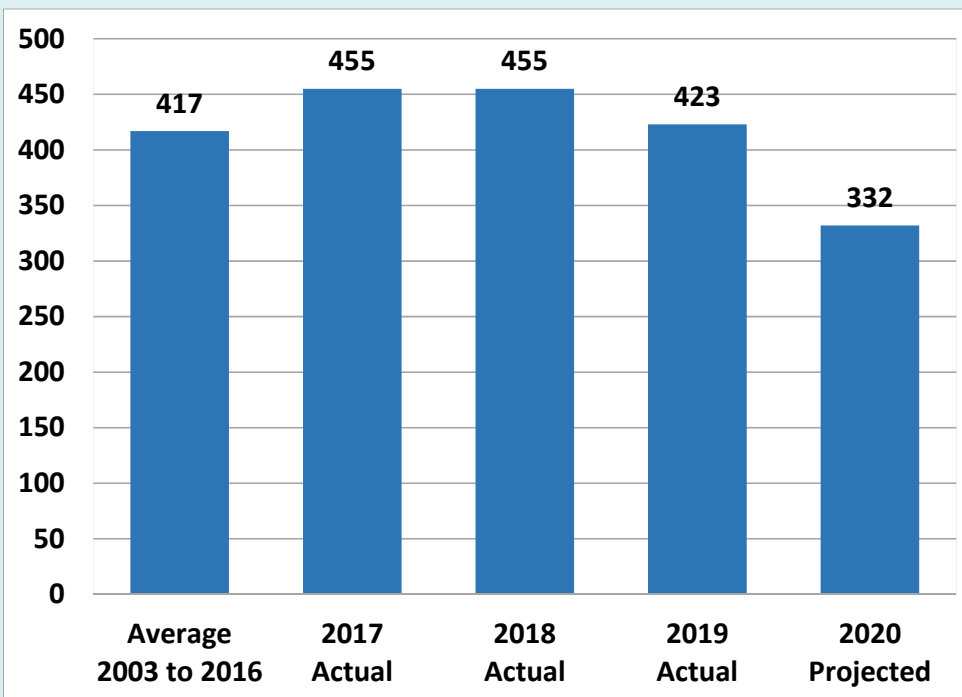
- Welfare Benefits – *Department of Human Services, Office of the Inspector General*
- Unemployment Insurance – *Maryland Department of Labor*
- Medicaid Benefits – *Maryland Department of Health, Office of the Inspector General*
- Identify Theft – *Office of the Attorney General, Identify Theft Unit*
- Income Tax – *Comptroller of Maryland, Compliance Division*



FIU Administrative Operations - Hotline Statistics

Call Volume

(Calendar Year Basis)



The decrease in CY 2020 was deemed to be due to the impact of COVID-19 restrictions on State operations.

Allegation Disposition

(February 2003 through October 2020)

Investigations Completed by OLA or in Process	18%
Referred to State Agencies (41% were related to Department of Human Services benefits.)	61%
Not Pursued	21%



FIU Administrative Operations - Hotline Awareness

The FIU promotes OLA's hotline by displaying fraud posters in State offices, including biannual messages on State employee payroll notices, and requesting that agencies send annual emails to their employees with OLA's hotline information.

During the past year, certain Judicial and Executive branch agencies have denied OLA's request to display fraud posters in their offices and/or to send emails to their employees with OLA's hotline information.

**STOP
FRAUD
IN STATE GOVERNMENT**

What kind of issues should be reported?

- FRAUD
- MISUSE OR ABUSE OF STATE RESOURCES
- THEFT
- POTENTIAL CONFLICTS OF INTEREST
- CORRUPTION
- SIGNIFICANT VIOLATIONS OF LAWS AND REGULATIONS
- VENDOR KICKBACKS

Available 24 hours a day,
7 days a week.

Information received is considered confidential.
You can remain anonymous.

Call Toll Free 877-FRAUD-11
(877-372-8311)

or report fraud at
our website www.ola.state.md.us
(Click on Stop Fraud)

Maryland General Assembly
Department of Legislative Services
Office of Legislative Audits
301 West Preston Street - Room 1202
Baltimore, Maryland 21201



FIU Investigative Operations – Results of Investigations

The results of investigations may be included in OLA's fiscal compliance audit reports or in separate special review reports. Several examples include:

- **State Department of Assessment and Taxation (DAT)** – Allegation related to DAT improperly reducing tax credits for homeowners in Montgomery County. (Report Dated November 5, 2020)
- **Department of Housing and Community Development (DHCD)** – Allegation related to possible violations of State laws, regulations, and policies by DHCD involving the use of contracts. (Report Dated July 10, 2020)
- **Maryland Department of Health (MDH) – Spring Grove Hospital Center (SGHC)** – Allegations regarding questionable procurement activity involving two SGHC employees. (Report Dated April 22, 2020)



FIU Investigative Operations – Results of Investigations

State Department of Assessments and Taxation (Finding 5)

DAT did not ensure HTC's were properly calculated. We received a referral on our fraud, waste, and abuse hotline regarding improperly reduced HTC's and initiated a review of the HTC process in 10 jurisdictions and noted the following:

- DAT did not periodically review programming of its automated system to ensure HTC's were properly calculated.
- DAT did not properly segregate duties for manually processed HTC's or ensure they were properly documented and adequately supported. We noted numerous HTC's that lacked supporting documentation and that were calculated improperly without detection.
- HTC's awarded to thousands of homeowners primarily in Montgomery County (but also Baltimore City) were improperly reduced by at least \$4.4 million,
 - DAT received advice from its legal counsel on January 23, 2019 that confirmed that its HTC calculation methodology was incorrect.
 - DAT does not intend to refund homeowners for the amounts overpaid.



FIU Investigative Operations – Results of Investigations

Department of Housing and Community Development (Finding 2)

DHCD improperly used two marketing contracts totaling \$5 million to obtain goods and services that were outside the scope of the contracts. Certain of these transactions appeared questionable.

- DHCD directed one of the contractors to purchase promotional supplies and computer tablets totaling approximately \$90,000 that were not included in the scope of the contract.
- DHCD directed the second contractor to pay a vendor \$50,000 for services based on an unsolicited proposal from this vendor. In addition, we noted that:
 - There was no formal agreement with the vendor.
 - Payment was made before any services were provided.
 - The vendor was not monitored by either the contractor or DHCD.



FIU Investigative Operations – Results of Investigations

MDH Spring Grove Hospital Center (Findings 1 and 2)

Significant deficiencies were identified relating to SGHC's procurement and monitoring processes, resulting in questionable activity. Similar findings were noted in OLA's 2008 special review of SGHC and involved some of the same employees.

- Specifications prepared for one invitation for bid appeared to be tailored to the equipment provided by the vendor that was awarded an \$800,000 contract.
- SGHC artificially divided procurements to avoid competitive public solicitations and MDH oversight. In addition, SGHC did not competitively procure or verify amounts paid on certain purchases, resulting in certain questionable activity and overpayments.
- OLA referred these matters to the Office of the Attorney General – Criminal Division.



FIU Investigative Operations – Audit Support

The FIU provided support on 18 other OLA special reviews/audits, such as the Opioid Operational Command Center, University of Maryland Medical System Corporation, and Motor Vehicle Administration. This support included activities such as:

- The development of audit procedures to address allegations and related risks.
- Preparation of electronic data matches to identify high-risk transactions.
- Analyses of agency transactions and documents to identify indicators of fraud and noncompliance with laws and regulations.
- Comprehensive research into individuals and companies referenced in allegations.
- Participation in fraud brainstorming sessions to identify high-risk areas and develop an approach to address the risks.



Conclusion

The FIU's efforts have been invaluable to the OLA, and we believe to the Legislature in exercising its oversight responsibility, and will continue to evolve and expand to help prevent and detect fraud and abuse in State government.

- Significant efforts continue to be made to build awareness of the hotline.
 - Hotline activity has continued to exceed initial expectations. Investigative auditors provide a high level of customer service to the hundreds of hotline callers.
 - OLA continues to identify and report on significant findings, in both fiscal compliance audit reports and special review reports, based on hotline allegations.
 - FIU future plans include:
 - Processes for the proactive detection of fraudulent transactions
 - Expanded support for ongoing audit efforts
 - Additional initiatives to promote fraud awareness in State government.
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Department of Legislative Services Office of Legislative Audits

Fraud Investigation Unit Update and Results Handout Excerpts from Audit Reports

**Presentation to
Joint Audit and Evaluation Committee**

**Gregory A. Hook, CPA
Joshua S. Adler, CPA, CFE
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December 8, 2020

State Department of Assessments and Taxation (DAT)

Report Date: October 5, 2020

Homeowners' Tax Credit

Background

According to the State's records, during fiscal year 2019, DAT approved 45,822 homeowners' tax credits (HTC) totaling approximately \$65.5 million. HTCs are awarded to homeowners with a combined household income up to \$60,000, allowing a credit against the homeowner's property tax bill when the property taxes exceed a fixed percentage of the household's gross income. To receive the HTC, homeowners must submit an application, along with supporting documentation, to DAT by September 1 of the fiscal year for which the HTC is being requested. For example, applications for the fiscal year 2019 property taxes were due by September 1, 2018.

DAT headquarters staff process the HTC applications, determine the amount of each credit, and notify the local jurisdictions which issue the credits on the tax bills or as refunds, depending on when the application was received. State law requires the local jurisdictions to submit reimbursement requests for redeemed HTCs to DAT who is to certify to the Comptroller of Maryland that the requested reimbursement is due. Homeowners that receive an HTC and then transfer ownership of the property during the year of the award must return the HTC on a prorated basis.

Finding 5

DAT did not ensure HTCs were properly calculated. As a result, HTCs awarded to thousands of homeowners in certain jurisdictions were improperly reduced by at least \$4.4 million.

Analysis

DAT did not ensure HTCs were properly calculated. As a result, HTCs awarded to thousands of homeowners in certain jurisdictions were improperly reduced by at least \$4.4 million in fiscal year 2019. Most HTCs are calculated automatically by DAT's automated system based on applicant income data entered in the system by DAT employees. Certain HTCs are calculated manually by DAT employees when a homeowner does not receive an individual real property tax bill (such as in the case of a housing cooperative) or for new home purchases where the tax credit must be prorated for less than a year.

The improper HTC calculations that we address in this finding were the result of

DAT's incorrect treatment of certain additional tax credits offered by certain local jurisdictions. Because each local jurisdiction may or may not provide its residents with other tax credits, which are in addition to the HTC provided for in State law and are paid for by the State, each jurisdiction could be impacted differently or not at all by this finding.

We received a referral to our fraud, waste, and abuse hotline, regarding HTCs that were improperly reduced for homeowners in one local jurisdiction (Montgomery County). As a result, we reviewed the procedures and controls and conducted testing of HTCs in this and nine other jurisdictions and noted the following conditions:

Ineffective Controls Over HTC Calculations

DAT did not establish effective controls over automated and manually processed HTC calculations.

- DAT did not periodically review the programming of its automated system to verify that it was calculating HTCs in an accurate manner and in accordance with the law. As a result, DAT was not aware that it had incorrectly programmed the system and that HTCs for residents of at least one jurisdiction (Montgomery County) were not being calculated consistent with the law as further described below.
- DAT did not segregate duties for manually calculating, processing, and approving HTCs and did not ensure the HTCs were properly documented and adequately supported. Specifically, our test of 21 manually processed HTCs from 8 jurisdictions disclosed that 5 HTCs totaling \$11,282 were calculated and processed by the same DAT management employee who was also responsible for reviewing and approving manual calculations, and authorizing the disbursement forms submitted to process the related payments. DAT generated an output report of these transactions that was subject to a supervisory review. However, the review did not include supporting documentation for the calculations. We noted that two of these calculations were not performed properly, resulting in excess tax payments by the homeowners totaling \$626. For 8 other HTCs totaling \$18,500, DAT did not document its calculations of the HTC or obtain and retain the documentation necessary to support its calculations. As a result, we could not determine whether these HTCs were properly calculated.

Automated and Manual Processing Errors in Calculating Certain HTCs

DAT improperly calculated HTCs in at least two jurisdictions (Montgomery County and Baltimore City) resulting in thousands of homeowners paying

excessive property tax amounts. DAT administers the State HTC and certain supplemental credits awarded to eligible homeowners by their local jurisdictions, such as Montgomery County's supplemental tax credit for senior citizens 65 or older with limited incomes.

- DAT's automated system improperly deducted the income tax offset credit (ITOC) administered by Montgomery County from homeowners' State and County real property tax liabilities, resulting in the HTCs awarded to homeowners in Montgomery County being improperly reduced.² Specifically, individual homeowners under the age of 65 had their State and County HTCs improperly reduced by amounts up to a total of \$692, and homeowners at least 65 years old had their HTCs reduced by amounts up to a total of \$1,038³. Based on our analysis of HTC applications processed in DAT's automated system for Montgomery County residents in fiscal year 2019, the improper reduction of homeowners' tax liabilities resulted in reduced HTCs awarded to 5,388 applicants totaling \$4.4 million. We determined that, based on the automated system's programming for Montgomery County, DAT improperly calculated HTCs dating back to at least 2005 in the same manner. We could not readily determine the amount by which HTCs were improperly reduced for years prior to fiscal year 2019.

Example of Impact of Incorrect DAT Calculation				
		OLA	DAT	
		Calculation	Calculation	
1	Tax liability (TL)	\$ 3,274	\$ 3,274	
2	County ITOC	N/A	692	
3	TL Used for HTC (1-2)	3,274	2,582	
4	Max Allowed Based on Income	1,610	1,610	
5	Calculated HTC (3-4)	1,664	972	
6	Homeowner Tax Liability (1-5)*	\$ 1,610	\$ 2,302	
	Difference (OLA-SDAT)	\$	(692)	

*Excludes other taxes and fees on the tax bill

- A similar condition was noted with HTCs manually processed by DAT employees. Specifically, our test of 22 manually calculated HTCs for homeowners that received property credits administered by Montgomery County and 3 other jurisdictions disclosed that DAT employees had improperly deducted these credits from the tax liabilities of 13 homeowners from 2 jurisdictions (Montgomery and Baltimore City). It appears that the manual calculations mirrored those programmed into the automated system for Montgomery County. Consequently, the HTCs awarded to these 13 homeowners were improperly reduced by \$6,500.

² Since HTCs are calculated based on real property tax liabilities, the improper calculation resulted in too low of a liability, which resulted in a too low of a credit.

³ Montgomery County homeowners that were at least 65 years old were eligible to receive a supplemental tax credit equal to half of their State HTC amount.

DAT received advice from its legal counsel on January 23, 2019 that confirmed our determination that DAT's HTC methodology commented upon above was incorrect.

Recommendation 5

We recommend that DAT

- a. establish procedures to periodically review the programming of its automated system to ensure that HTCs for all jurisdictions are being processed accurately and in accordance with the law;
- b. segregate duties over manually processed HTCs and ensure they are properly calculated, documented, and supported;
- c. comply with advice of legal counsel and discontinue the practice of deducting other tax credits from applicants' total property tax liabilities, except as allowed by State law; and
- d. consult with legal counsel on how to proceed regarding any refunds resulting from the HTC miscalculations including the \$4.4 million noted above.

Agency Response	
Analysis	
Please provide additional comments as deemed necessary.	SDAT disagrees with the sentiment of impropriety in the statement "HTCs awarded to thousands of homeowners in certain jurisdictions were improperly reduced by at least \$4.4 million." Before OLA began their audit, SDAT made a policy determination that increased the amount of tax credits received by certain jurisdictions in future years. Subsequent conversations with SDAT's Assistant Attorney General confirmed that this is the appropriate course of action moving forward, but the Department does not feel as though prior year calculations were inaccurate as they were consistent with the Department's practice at the time and implicitly upheld by PTAAB and Maryland Tax Court decisions.

Auditor's Comment: DAT's statement that the PTAAB and the Maryland Tax Court "implicitly upheld" the specific calculation method we addressed in our report is not consistent with its position during our audit fieldwork or subsequent to the audit when we discussed the finding with DAT management. Furthermore, the statement is questionable since the specific calculation method we addressed was demonstrably improper, and our assessment that the calculation method was improper was consistent with advice DAT received from its legal counsel in January 2019 as noted in our report.

Recommendation 5a	Agree	Estimated Completion Date:	October, 2020
Please provide details of corrective action or explain disagreement.	<p>Local jurisdictions are required by law to inform SDAT of changes made to their programs. The Department verifies that the programming of its automated system is accurate annually or whenever a change is made by a jurisdiction or OIT.</p> <p>The annual process begins the day after the jurisdiction's cut-off date. The Program Manager is responsible for verifying that the tax rate and calculations are accurate. When a change is made to the system, OIT informs the Program Manager the day after it has been implemented; and the Program Manager manually verifies the program is making accurate calculations.</p> <p>Beginning October 2020, the Department will establish procedures to ensure each jurisdiction's tax rate and calculations are verified annually or when a change has been made. A log will be created and an entry made whenever a calculation is verified. Tax Credits' new system will be handling the calculations for each jurisdiction beginning 2021. The programming will be reviewed annually to ensure the homeowners' tax credit is being calculated accurately and in accordance with the law.</p>		
Recommendation 5b	Agree	Estimated Completion Date:	September 2020
Please provide details of corrective action or explain disagreement.	<p>SDAT has enhanced its process of manually calculating, processing, and approving homeowners' tax credits by including additional personnel in the initial calculations, implementing multiple checks throughout the process, and generating an output report for periodic review.</p> <p>The processing supervisors and other appointed persons are responsible for calculating all manually processed homeowners' tax credit applications. Once the calculations are complete, the application and all required supporting documentation is given to the Office Secretary.</p> <p>The Office Secretary enters data from the application into an online spreadsheet and prepares a weekly transmittal.</p> <p>The Office Secretary gives the Program Manager the transmittal and applications along with all supporting documents and calculations.</p> <p>The Program Manager is responsible for ensuring all applicable supplemental tax credits are included in the calculation. Upon completion, the Program Manager will initial each document to indicate it has been reviewed and verified accurate.</p>		

	<p>The Program Manager gives everything to the Office Secretary who is responsible for ensuring all documentation is initialed before submitting the transmittal to Accounting. The Office Secretary will place a copy of the transmittal in a binder and keep the original with the documents that will be taken to be scanned. Upon return of the documents, the Office Secretary will verify the transmittal and all pages of the documents have been scanned.</p> <p>Finally, the Department will generate an output report that will be reviewed annually by the Deputy Program Manager or member of the audit team.</p>		
Recommendation 5c	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>Prior to OLA completing their audit, the Department agreed upon a change in procedure on how it calculates the Homeowners' Tax Credit, to be implemented in 2020. Beginning with the 2020 application, property tax credit calculations will consider only the Homestead Credit as a deduction, and no other real property credits. OIT made the necessary program changes to the automated system. In early June, it was verified by the Program Manager that the only tax credit being deducted is the Homestead Tax Credit. This has also been relayed to those processing applications manually.</p> <p>Subsequent conversations with SDAT's Assistant Attorney General confirmed that this is the appropriate course of action moving forward, but the Department does not feel as though prior year calculations were in accurate as they were consistent with the Department's practice at the time and implicitly upheld by PTAAB and Maryland Tax Court decisions.</p>		
Recommendation 5d	Disagree	Estimated Completion Date:	
Please provide details of corrective action or explain disagreement.	<p>As stated above, the Department does not feel as though prior calculations were inappropriate and therefore doesn't plan on issuing any additional payments for prior-year tax credits. These payments are also not appropriately classified as "refunds".</p> <p>After discussing this policy change with SDAT's Assistant Attorney General, that office agreed that there was no legal authority that compels the Department to issue additional homeowners' tax credit payments for prior years.</p>		

Department of Housing and Community Development **(DHCD)**

Report Date: July 10, 2020

Contract Procurement and Monitoring

Finding 2

DHCD improperly used marketing and construction management services contracts to obtain goods and services that were outside the scope of the contracts. Certain of these purchases appeared questionable, and DHCD could not document that these goods and services were received.

Analysis

DHCD improperly used contracts for marketing and construction management services to obtain goods and services that were outside the scope of the contracts. Certain of the goods and services purchased appeared questionable, and DHCD could not document that these goods and services were received. We received an allegation through our fraud, waste, and abuse hotline regarding possible violations of State laws, regulations, and policies by DHCD involving the use of contracts. Our review of the specific contract referenced in the allegation did not identify any matters that warranted a referral to the Attorney General's Criminal Division. However, our review of the contract in the allegation and another contract (included in Finding 1) disclosed the following conditions.

Marketing Contract

Certain of the transactions made under a marketing contract appeared questionable and the disposition of items improperly procured under the contract could not be readily determined. In April 2015, DHCD entered into two five-year contracts (including a two-year renewal period) totaling \$5 million, under a solicitation to obtain marketing services for various housing and neighborhood development advertising campaigns. The two vendors awarded a contract provided services including marketing planning, media buying, creative design services, and marketing analysis.

- DHCD had directed one of the marketing contractors to purchase promotional supplies and computer tablets totaling approximately \$90,000, during the period between September 2015 and January 2018 that were not included in the scope of the marketing contract. The promotional supplies were essentially printed material obtained by the contractor from office supply companies, although DHCD's contract specially excluded printing services.

DHCD management advised us that these items were used as promotional giveaways and raffle prizes for homebuyer education events, but could not provide any documentation accounting for the disposition of the tablets purchased and could not identify the specific educational events. We were advised by DHCD that the individual who directed the contractor to purchase these items was no longer employed by DHCD.

- DHCD directed the second marketing contractor to pay a vendor for other services, without any formal agreement existing between either the contractor or DHCD with the vendor, and could not document that the vendor provided deliverables commensurate with the amounts paid. Specifically, in June 2017, DHCD received an unsolicited proposal from an existing DHCD vendor to develop a homebuyer education marketing campaign. Rather than enter into a contract with this vendor, as required by State procurement regulations, DHCD directed the marketing contractor to pay the vendor \$50,000 for these services. Neither DHCD nor its marketing contractor had a formal agreement with the vendor describing the specific services that were to be provided. In addition, the \$50,000 payment was authorized by DHCD and made by the contractor before any services were provided by the vendor, and the vendor was not monitored by either party to ensure the services were provided.

Furthermore, the vendor's marketing campaign proposal included a pledge that the vendor would raise \$50,000 from outside parties to help fund this marketing campaign, but DHCD did not verify that these funds were raised. At our request, DHCD obtained from the vendor a summary of services provided as of May 2019. The summary showed that only \$10,000 in matching funds was raised. In addition, although print media and a website had been developed listing DHCD as a sponsor of the program, DHCD was unable to provide any documentation indicating its approval of these materials and could not readily determine whether these services were commensurate with the \$50,000 paid to the vendor.

Construction Management Contract

DHCD circumvented State procurement regulations by authorizing three construction management services vendors to do work that was not included in the scope of the contract and paid one of these vendors overhead costs that were not specified in the contract. In May 2017, DHCD entered into a five-year, \$2.5 million contract for construction management services for multifamily housing projects. The contract was awarded to three vendors for services including design and construction document review, construction cost review, and field monitoring during the construction phase. Under the contract, these construction-related services were to be billed at rates ranging from \$109 per hour to \$132 per hour.

- DHCD authorized each of the construction management services vendors to perform rental inspection services for a rental subsidy program—services that were not included in the scope of the contract since the services were unrelated to the construction phrase of the contract. DHCD management advised us that it believed that this work was authorized because it was similar to the construction management services. Work performed by the three vendors for rental inspection services totaled approximately \$76,000 as of December 2018.
- DHCD authorized payment of approximately \$16,200 to one of the construction management services vendors for “project oversight charges” for administrative tasks, such as tracking and ensuring that inspection reports were delivered to DHCD, that were not provided for in the contract. Furthermore, the amount charged appeared excessive. Although DHCD questioned the charges and obtained an explanation from the vendor, the rate billed by the vendor, and paid by DHCD, for these administrative tasks primarily was the highest construction management rate established in the contract (\$132 per hour). We were advised by DHCD that it ceased doing business with this vendor in July 2018.

The use of these contracts to procure unrelated goods and services and the services of other vendors circumvents the public solicitation, competitive bidding, and other procurement requirements established in State regulations.

Recommendation 2

We recommend that DHCD

- a. discontinue the practice of using existing contracts to procure goods and services not provided for in the contract and to process payments to vendors not originally included in the contract,**
- b. ensure all service procurements are documented in formal agreements and all services are provided, and**
- c. ensure that all billings are in accordance with the approved scope of work and contract rates.**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	No additional comments		
Recommendation 2a	Agree	Estimated Completion Date:	10/31/2019
Please provide details of corrective action or explain disagreement.	<p>The Department concurs with the recommendations. While the Department believed that promotional materials purchased and services utilized by contractors in connection to events where the Department promoted its programs were appropriate uses of its existing contracts, the Department has taken measures to ensure that contracts are used as intended. Specifically, the Department has instituted a contract monitor in October 2019, whose role is to ensure that goods and services are procured within the scope of the Department's marketing contracts.</p>		
Recommendation 2b	Agree	Estimated Completion Date:	10/31/2019
Please provide details of corrective action or explain disagreement.	<p>Also in October 2019, the Department incorporated updated language in its requests for proposal for future service contracts in an effort to afford a more inclusive scope of work for vendors to provide services under.</p>		
Recommendation 2c	Agree	Estimated Completion Date:	6/30/2018
Please provide details of corrective action or explain disagreement.	<p>As stated in the auditor's finding, the Department ended its relationship with the vendor in question due to the billing issues stated. Additionally, in June 2018, the Department also hired a new construction manager and adopted a new task order process to ensure that vendor billings are congruent with contract rates and approved scopes of work.</p>		

MDH – Spring Grove Hospital Center

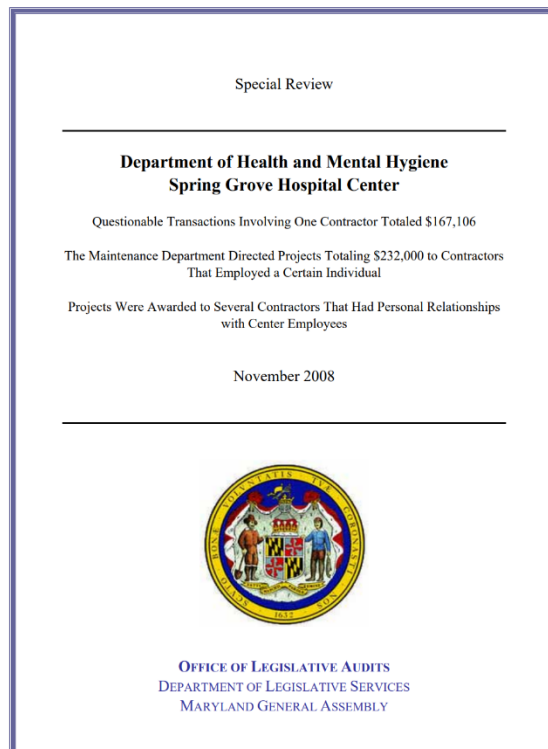
Report Date: April 22, 2020

Questionable Procurement Activity

Background

During our audit fieldwork, we were advised by Spring Grove Hospital Center (SGHC) management that the Maryland Department of Health's (MDH) Office of the Inspector General (OIG) had received allegations of questionable procurement activities involving two SGHC employees. OIG conducted a review of the allegations and issued a report on its findings dated March 6, 2018. The OIG report disclosed that SGHC employees violated State laws and regulations and MDH policy when procuring certain goods and services. Specifically, the report disclosed that a SGHC management employee authorized the award of a \$1,800 contract to a company owned by a relative of a SGHC maintenance employee. In addition, the report disclosed that the management employee circumvented State procurement regulations and MDH policy by directing work and approving payments totaling \$18,600 to two other vendors without a competitive procurement process. MDH did not refer these matters to the Office of the Attorney General or the State Ethics Commission, and SGHC allowed both the management and maintenance employees to resign in lieu of termination.

Our reading of the OIG report disclosed that this same management employee was previously involved in certain procurements that were the subject of a special review we conducted in 2008 in response to allegations that we received about SGHC through our fraud, waste, and abuse hotline. The allegations were concerning possible improper procurement activities related to certain maintenance projects. Our November 10, 2008 special report (see cover page) included four findings and resulted in a referral of certain matters to the Office of the Attorney General – Criminal Division. This same management employee separated from State service



after the issuance of our special report. However, we noted that this management employee was rehired in March 2017 by a SGHC senior management employee who was also involved in the procurements included in our special review.

Given these circumstances, we expanded our review of SGHC's procurements during this fiscal compliance audit to include certain procurements involving these SGHC employees as well as procurements under certain established thresholds. Our expanded review identified procurement and monitoring deficiencies and certain questionable activity described in Findings 1 and 2. These current matters have been referred by us to the Office of the Attorney General – Criminal Division. A referral to the Criminal Division does not mean that a criminal act has actually occurred or that criminal charges will be filed.

Finding 1

The invitation for bid for the purchase of dietary equipment costing \$800,000 appeared to be tailored to a particular vendor.

Analysis

Specifications in SGHC's invitation for bid (IFB) for the purchase of dietary equipment appeared to be tailored to a particular vendor. In April 2017, the Department of General Services (DGS), on behalf of SGHC, publicly advertised the IFB on *eMaryland Marketplace* (eMM). Although the procurement was processed through DGS, preparation of the IFB and evaluation of the related bids were performed by SGHC personnel, including one of the management employees noted above.

Based on our review, we identified certain equipment design and physical requirements in the IFB that favored the equipment of a specific vendor (hereinafter referred to as the "questionable vendor"). For example, we noted that the IFB included certain equipment size restrictions consistent with the dimensions of the questionable vendor's equipment that limited competition on the procurement. Specifically, during the pre-bid process, one of the eventual losing bidders questioned the equipment dimensions, noting that the restrictive size requirements were not necessary for the equipment to fit in the designated locations. In response, SGHC personnel stated that equipment within two to three inches of the specified sizes included in the IFB would be considered, but that the dimensions specified in the IFB would be preferred.

There was no documentation to justify the specified restrictive size requirement or award preference for those original dimensions, given its potential impact on a competitive procurement. Our review disclosed that the aforementioned senior management employee corresponded directly with the questionable vendor

regarding the solicitation after publication of the IFB, but prior to the receipt of bids. We found that the content of the correspondence between certain SGHC employees and one vendor raised further questions about the validity of the procurement.

Three bids were received in response to the IFB, but two of the vendors were unable to meet the IFB requirements, including equipment dimensions, and were deemed to be non-responsive. In October 2017, SGHC awarded a contract valued at \$800,000 to the questionable vendor, which had the second lowest cost bid, but was the only responsive bidder. The equipment was subsequently installed and the questionable vendor was paid in full.

State procurement law requires agencies to draft specifications to encourage maximum competition and prohibits agencies from drafting specifications in favor of a single prospective bidder. In addition, State law generally prohibits agencies from disclosing information to outside parties, including prospective bidders, after a solicitation is issued.

Recommendation 1

We recommend that SGHC

- a. ensure future specifications are drafted to encourage maximum competition and not be favorable to a single prospective bidder, as required by State procurement law;**
- b. refrain from disclosing information to any interested outside party after solicitations are issued beyond those specifically provided for in State law; and**
- c. after consultation with the Office of the Attorney General – Criminal Division, work with DGS and legal counsel to determine the appropriate action to be taken regarding this procurement.**

Agency Response			
Background / Analysis	Factually Accurate		
Please explain any concerns with factual accuracy.			
Recommendation 1a	Agree	Estimated Completion Date:	08/30/2020
Please provide details of corrective action or explain disagreement.	As a result of the OIG investigation, management involved in the procurement process at the time have since resigned and/or were terminated and are no longer employed by MDH.		

	<p>SGHC has removed the procurement function from under the senior manager's division and has placed it under the Chief Financial Officer's (CFO) division where oversight and management are much more vigilant.</p> <p>In order to ensure the promotion of maximum competition, any specifications obtained and incorporated into a solicitation will be vetted through the appropriate workgroup that has reasonable subject matter knowledge of or obtains subject matter information through research or consultation.</p> <p>The implementation of this process will be memorialized in a written policy/guideline.</p>		
Recommendation 1b	Agree	Estimated Completion Date:	06/30/2020
Please provide details of corrective action or explain disagreement.	Currently all procurements go through a single procurement department that is embodied in the CFO's department. Revised written procedures and guidelines will be documented and implemented to ensure the proper separations of duty are in place to preclude any conflict of interests.		
Recommendation 1c	Agree	Estimated Completion Date:	6/30/2020
Please provide details of corrective action or explain disagreement.	This agency has informed the AG's office via email (dated 12/30/2019) about findings #1.		

Finding 2

SGHC circumvented State procurement regulations and MDH procurement policies by artificially dividing procurements for goods and services to keep them under certain solicitation and delegation thresholds. In addition, SGHC did not always competitively procure or verify amounts paid on certain purchases, resulting in certain questionable activity and overpayments.

Analysis

SGHC circumvented procurement policies and State procurement regulations by artificially dividing procurements for goods and services to keep them below certain solicitation and delegation thresholds, and made payments without an existing purchase order. In addition, our testing of such procurements found that they were not always competitively procured or that SGHC did not always verify the propriety of related invoices prior to payment. To the extent these procurements were not publicly solicited, SGHC employees responsible for

procuring the goods or services were able to directly solicit, receive, and evaluate bids, and select a vendor without involvement from the MDH Office of Procurement and Support Services (OPASS) personnel.

Our review of State records disclosed that SGHC had a pattern of splitting purchases into multiple purchase orders and made additional supplemental payments to these vendors for which there were no purchase orders on file, as described in Table 1.

TABLE 1
Summary of Split Purchases and Procurements Lacking Purchase Orders
Procurements Circumventing Public Solicitation Requirements
<p>During the period from February 17, 2015 through December 31, 2018,</p> <ul style="list-style-type: none"> • SGHC issued 23 purchase orders in amounts between \$14,000 and \$15,000 to 19 vendors totaling \$339,100, with related payments totaling \$259,891; and • SGHC made 299 additional payments totaling \$237,600 to 13 of these vendors for work performed during this same period that was not associated with any corresponding purchase orders.
Procurements Circumventing MDH's Office of Procurement and Support Services (OPASS)
<p>During the period from February 17, 2015 through September 30, 2017,¹</p> <ul style="list-style-type: none"> • SGHC issued 30 purchase orders in amounts between \$24,000 and \$25,000 to 17 vendors totaling \$749,100; and • SGHC made 217 additional payments totaling \$219,400 to 9 of these vendors for work performed during the same period that was not associated with any corresponding purchase orders.

Source: State Records

¹Effective October 1, 2017, the procurement authority delegated to SGHC by the Maryland Department of Health increased from \$25,000 to \$50,000.

We selected 10 vendors (including 6 from Table 1) with multiple purchases and disbursements of \$25,000 or less. These 10 vendors received payments totaling \$548,600 during the period from February 17, 2015 through December 31, 2018, all of which were associated with purchase orders in amounts equal to or below \$25,000 or were not associated with any purchase order. For 7 of these vendors, the circumstances suggest that SGHC may have intentionally avoided MDH OPASS and DGS oversight and public solicitation requirements. The two management employees from our aforementioned 2008 special review had roles in certain procurements or payment activity associated with these 7 vendors.

Our testing identified procurements that were not competitively procured and inadequate verifications and documentation to support invoices. As a result, payments were not always consistent with contract terms, were processed after the purchase orders had expired, or exceeded the related purchase order maximum values. We further noted certain questionable activity and overpayments to vendors. For example, our review disclosed the following conditions:

- SGHC issued several individual \$25,000 purchase orders in fiscal years 2016, 2017, and 2018 for grounds maintenance services rather than consolidating these services into one procurement. In addition, SGHC paid the vendor \$11,300 for services during a lapse between the fiscal year 2016 and 2017 purchase orders. Furthermore, although the invoices supporting the \$11,300 in payments referenced the fiscal year 2016 purchase order, the daily rate paid was \$675 rather than the 2016 purchase order rate of \$575, resulting in an overpayment of \$1,675.

For the fiscal year 2017 purchase order, SGHC paid the vendor a total of \$73,900, exceeding the awarded purchase order amount by \$48,900. Although the original \$25,000 purchase order was competitively bid, SGHC circumvented OPASS oversight and avoided certain requirements for purchases greater than \$25,000 such as DGS approval, and the use of a competitive sealed bidding process.

- SGHC issued a \$25,000 purchase order to another vendor for tree removal services to be performed during fiscal year 2016, but paid the vendor a total of \$32,000. Although this procurement was competitively bid, similar to above, SGHC circumvented OPASS oversight and avoided certain requirements for purchases greater than \$25,000. In addition, certain invoices submitted by the vendor lacked sufficient details for SGHC to ensure their propriety (such as the size of the tree removed which, per the contract, was the basis for differing rates to be charged), and certain rates charged exceeded the rates in the purchase order. For example, SGHC paid the vendor \$1,300 to remove a tree even though the purchase order rate for the largest sized tree was \$600. The invoices also included charges for certain landscaping services (such as clearing vines) that were not within the scope of the purchase order.
- SGHC issued annual purchase orders, each totaling \$24,960, to a former employee for maintenance services to be provided in fiscal years 2015 through 2018 without soliciting any bids or publishing the awards. Payments to the former employee during the period from February 17, 2015 through June 30, 2018 totaled \$100,400. Given the total amount paid to the former employee, SGHC should have consolidated these procurements and,

accordingly, SGHC circumvented OPASS oversight and avoided certain requirements for purchases greater than \$25,000. SGHC also could not provide documentation to support how it determined the hourly rate paid to the former employee and had no process to verify the number of hours reported on the related invoices.

- SGHC split a \$23,286 purchase of four exterior building doors in June 2016 into four individual solicitations, and received bids ranging from \$4,700 to \$7,650 per door. SGHC ultimately combined these solicitations into one purchase order, without complying with the public solicitation requirements for purchases expected to exceed \$15,000.

In addition, although the procurement file indicated that only two bids were received and the purchase order was awarded to the lower bidder, our review disclosed that SGHC did not consider bids received from a third vendor for two of the doors that were collectively \$1,800 less than the winning bidder. Specifically, we sighted quotes from this vendor, for the two doors, that were maintained outside of the procurement file. Furthermore, the eventual winning bidder submitted revised quotes for these two doors, increasing the price by \$516, on the same day that the only other recognized bid was received. There was no change in the scope of work and no explanation from the bidder for the increased cost. Finally, SGHC could not explain its rationale for failing to consider the vendor with the lower priced bid for what were at the time being treated as individual procurements.

State procurement regulations generally require a formal written competitive procurement and publication of the solicitation and related awards on *eMaryland Marketplace*, which was replaced by *eMaryland Marketplace Advantage* in July 2019, for procurements exceeding \$15,000. State procurement regulations further require contracts valued at more than \$50,000 to be awarded through a competitive sealed bidding process and prohibit procurements from being artificially divided to circumvent procurement requirements.¹ Finally, the MDH *Procurement Policy* requires procurements exceeding \$50,000 to be submitted to MDH OPASS for processing.

Recommendation 2

We recommend that SGHC

- a. discontinue the practice of artificially dividing procurements to circumvent State procurement regulations and MDH's *Procurement Policy*;**

¹ Prior to October 2017, the threshold for competitive sealed bidding required by State procurement regulations was \$25,000.

- b. comply with State procurement regulations for competitive procurements, including publication of solicitations and awards when required;
- c. ensure that vendor invoices contain sufficient details to determine the propriety and reasonableness of the services performed and amounts billed, and verify the same prior to payment;
- d. conduct thorough reviews of vendor invoices, including those related to the aforementioned payments, investigate and resolve any discrepancies, and recover any amounts that are determined to be improperly paid; and
- e. consult with the Office of the Attorney General – Criminal Division before taking any actions related to the questionable procurements noted.

Agency Response			
Background / Analysis	Factually Accurate		
Please explain any concerns with factual accuracy.			
Recommendation 2a	Agree	Estimated Completion Date:	6/30/2020
Please provide details of corrective action or explain disagreement.	<p>SGHC has discontinued the practice of artificially dividing procurements. SGHC will comply with all State procurement regulations and policies including publication of solicitations and awards.</p> <p>SGHC has taken additional measures such as establishing a procurement integrity committee to review the procurement and to remain in compliance with OPASS regulations.</p> <p>We are in the process of drafting policies and procedures that will govern this committee.</p>		
Recommendation 2b	Agree	Estimated Completion Date:	6/30/2020
Please provide details of corrective action or explain disagreement.	<p>SGHC will comply with the State procurement regulations for competitive procurements, including publication of solicitations and awards on eMaryland Marketplace Advantage when required.</p>		
Recommendation 2c	Agree	Estimated Completion Date:	06/30/2020
Please provide details of corrective action or explain disagreement.	<p>SGHC will ensure that vendor invoices contain enough details to determine the propriety and reasonableness of the services performed and amounts billed. The accounts payable supervisor will verify that the vendor invoices agree with the contract prices as indicated in the PO/contract prior to making the final payments.</p>		
Recommendation 2d	Agree	Estimated Completion Date:	09/30/2020

Please provide details of corrective action or explain disagreement.	SGHC will make every effort to review the propriety of the vendor invoices, including those related to the payments indicated in this finding, investigate and resolve any discrepancies.		
Recommendation 2e	Agree	Estimated Completion Date:	9/30/2020
Please provide details of corrective action or explain disagreement.	We will consult with the Criminal Division of the Attorney General's office and provide all informational and documentary support they request should they decide to pursue this matter. SGHC will not take any action until it has received advisement from the Criminal Division of the AG.		