

Performance Audit Report

**Certain Operational Aspects of the
Blind Industries and Services of Maryland**

February 2016



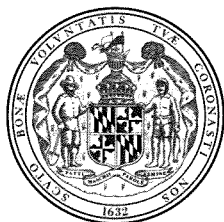
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DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

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February 1, 2016

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Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We conducted a performance audit of certain operational aspects of the Blind Industries and Services of Maryland (BISM). The audit included an evaluation of BISM's employment and training strategies for the blind, pricing policies and practices for supplies and services sold to State agencies, and executive compensation processes. The audit was conducted at the direction of the General Assembly's Joint Audit Committee.

BISM is a nonprofit organization that conducts manufacturing and retail operations and provides employment in Maryland and other states, and provides rehabilitation and training programs primarily to blind adults of Maryland. BISM's operations are primarily funded through product sales, which totaled \$84 million during fiscal year 2015, of which approximately \$10.5 million represented sales to State agencies. As of June 30, 2015, BISM employed 578 associates (216 blind and 362 sighted). During fiscal year 2015, BISM provided rehabilitation and training services to 784 persons, which was funded by both the State and BISM.

Our audit disclosed that until September 2015, BISM had not formally adopted strategies to accomplish organizational goals it established in 2013. Since then, BISM has not taken the next step of developing action plans and measures to assess the success of its efforts. Action plans are essential if BISM hopes to achieve its 2020 goals, such as almost tripling its sales to \$250 million and increasing employment by 67 percent.

BISM conducts outreach programs and provides rehabilitation and training services to Maryland residents throughout the State. Representatives from certain State and county health and human services agencies indicated that

they were unaware of any individuals who requested services BISM offers that had not been served. Surveys conducted by BISM for certain of its program services indicated that participants had achieved successful outcomes and were satisfied with the services provided.

The independent pricing committees established by State law to set the fair market prices of BISM supplies and services available to State agencies have not performed a comprehensive review of BISM prices. Nevertheless, our survey indicated that, on an overall basis, BISM prices for 14 products typically purchased by the State during fiscal year 2015 were competitive with the Internet prices offered for similar competitor products.

The processes for setting compensation for the chief executive officer (CEO) and other management personnel were not comprehensive. The annual performance evaluations, the results of which were integral for annual salary adjustments, did not include an assessment as to whether organizational and/or position goals were achieved. Furthermore, comparison compensation data was not obtained to ensure the compensation for non-CEO management positions were reasonable, although the compensation paid to three management personnel we reviewed appeared reasonable.

Based on an analysis we performed, the BISM CEO's salary (including bonus) of \$472,500 was comparable to the compensation paid to CEOs of three other similarly-sized blind industries organizations operating in other parts of the country. Approximately one-half of the BISM's CEO's compensation represented a bonus, but BISM's CEO Performance Bonus Program had not been defined.

Finally, BISM had established a comprehensive code of ethics and appropriate financial disclosure requirements and compliance with the policy was properly monitored.

The responses to this audit are included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by BISM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "TJ Barnickel III", with a stylized flourish at the end.

Thomas J. Barnickel III, CPA
Legislative Auditor

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Executive Summary

We conducted a performance audit of certain operational aspects of the Blind Industries and Services of Maryland (BISM). The audit included an evaluation of BISM's employment and training strategies for the blind, pricing policies and practices for supplies and services sold to State agencies, and executive compensation processes. The audit was conducted at the direction of the General Assembly's Joint Audit Committee.

BISM is a nonprofit organization that conducts manufacturing and retail operations and provides employment in Maryland and other states, and provides rehabilitation and training programs primarily to blind adults of Maryland. Its mission is to "provide stable career opportunities, innovative rehabilitation programs, quality products and services, and to develop resources for training and education." BISM's operations are primarily funded through product sales, which totaled \$84 million during fiscal year 2015, of which approximately \$10.5 million represented sales to State agencies. As of June 30, 2015, BISM employed 578 associates (216 blind and 362 sighted). During fiscal year 2015, BISM provided rehabilitation and training services to 784 persons, which was funded by both the State and BISM.

Employment and Training Strategies

Until September 2015, BISM had not formally adopted strategies to accomplish organizational goals for 2020 that it established in 2013. Since then, BISM has not taken the next step of developing action plans or measures to assess the success of its efforts. Action plans are essential if BISM hopes to achieve its 2020 goals, such as of increasing sales to \$250 million, which equates to approximately tripling its current annual sales activity, and increasing employment to 750 individuals, representing an increase of 67 percent over the next five years. Whether future employment increases would include Maryland blind residents is unknown; BISM recently advised that it is unaware of any Maryland blind residents seeking employment opportunities with BISM.

BISM conducts outreach programs to inform Maryland residents throughout the State of its rehabilitation and training programs and services.

Representatives from certain State and county health and human services agencies indicated that they were unaware of any individuals who requested services BISM offers that had not been served.

Over the years, BISM has assumed more financial responsibility for funding its rehabilitation and training programs. Although the budget committees of the

Maryland General Assembly, in the past, had expressed the intent that BISM move toward self-sufficiency for the program costs, it appears this issue is no longer a concern. During fiscal year 2015, BISM's rehabilitation and training expenditures totaled approximately \$1,579,000 of which \$876,000 was funded by the State and \$703,000 was financed by BISM.

BISM has established mechanisms to evaluate the success of its rehabilitation and training programs but those processes should be expanded to include all such services. The surveys that were conducted by BISM for certain program services indicated that participants had achieved successful outcomes and were satisfied with the services provided.

Pricing Policies and Practices for BISM Supplies and Services

The independent pricing committees established by State law to set the fair market prices of BISM supplies (products) and services available to State agencies have not performed a comprehensive review of the BISM supplies and services prices. Consequently, there is a lack of assurance that BISM's price for each of its supplies and services, which generally State agencies must buy under a mandated procurement preference, reflect the fair market price. Rather, the prices charged to State agencies for hundreds of products, have been those recommended by BISM.

Based on price surveys we conducted, on an overall basis, BISM prices for 14 products typically purchased by the State during fiscal year 2015 were competitive with the prices for similar competitor products offered for sale on the Internet. For example, our comparison of the average BISM unit prices paid by the State during fiscal year 2015 to the average Internet prices offered by vendors disclosed that 12 of the 14 products were priced lower by BISM.

Regarding the products that BISM offered to the State under the procurement preference, BISM did not maintain records to demonstrate that direct blind labor hours constituted at least 75 percent of the total manufacturing hours for each product. Based on legal advice we sought, counsel to the General Assembly reaffirmed a 1993 Attorney General's Opinion that concluded that only products meeting that blind labor hour threshold qualify for the State procurement preference. BISM disagrees with that conclusion based on a 1995 Baltimore City Circuit Court judgment that concluded, with respect to the applicable provisions of State law, BISM was deemed to be a State agency and, therefore, the requirement does not apply to BISM. Since the 1995 ruling, BISM has relocated to Baltimore County. According to legal counsel, if the matter is again raised before the court in another jurisdiction (such as

Baltimore County), a different decision could be reached regarding whether BISM is required to comply with the blind labor threshold.

Executive Compensation Processes

The processes for setting compensation for the chief executive officer (CEO) and other management personnel were not comprehensive. The annual performance evaluations, the results of which were integral for annual salary adjustments for those individuals, did not include an assessment as to whether organizational and/or position goals were achieved.

Comparison compensation data was annually obtained for the CEO position, however, such information was not obtained to ensure the compensation for other management positions was reasonable. Based on an analysis we performed comparing CEO compensation and gross receipts, the BISM CEO's salary (including bonus) of \$472,500 was comparable to the compensation paid to CEOs of three other similarly-sized blind industries organizations. The compensation paid to three other management personnel we reviewed also appeared reasonable.

Although approximately one-half of the CEO's compensation represented a bonus, BISM's CEO Performance Bonus Program had not been defined. BISM's Board Chairman advised that the bonus was a mechanism for bridging the difference between the BISM's CEO's base salary and the compensation paid to peer CEOs.

Finally, BISM had established a comprehensive code of ethics and appropriate financial disclosure requirements and compliance with the policy was properly monitored.

Background Information

BISM Overview

Blind Industries and Services of Maryland (BISM), an Internal Revenue Code 501 (c) (3) nonprofit organization, was established in 1908 as Maryland Workshop for the Blind by the General Assembly to provide vocational rehabilitation, continuous employment, and other resources to blind adults of Maryland. Facilities were added in 1955 and 1969 to serve the needs of the blind in Western Maryland (Cumberland) and the Eastern Shore (Salisbury). In 1973, Maryland Workshop for the Blind was renamed by legislation as Blind Industries and Services of Maryland.

Since the early 1990's, BISM has participated in a federal nationwide program where the federal government buys products and services from community-based non-profit agencies, dedicated to training and employing people who are blind or have significant disabilities. Under the program BISM has been awarded textile contracts to produce garments, including uniforms for the branches of the military, operating textile manufacturing facilities in Baltimore County, Cumberland, and Salisbury. Subsequently, BISM expanded its textile operations by purchasing a plant in North Carolina (also employing the blind). The textile work at BISM's Maryland locations are assisted by the work performed by a separate non-profit charitable organization (Maryland Manufacturing Services, Inc. or MMS) incorporated in Maryland for that purpose. In 1997, BISM expanded its participation in the program to the operation of base supply stores at a number of sales locations on federal property in several states (including Maryland) and the District of Columbia.

Under State law, BISM has been granted a procurement preference for sales to State agencies. The preference mandates that a State or State aided or controlled entity shall buy supplies and services from BISM if BISM provides the services and supplies and the Maryland Correctional Enterprises (MCE) does not (MCE has primacy over BISM in State law regarding procurements by State agencies). There is also a law provision that for a State contract award that includes housekeeping or janitorial services, the prime contractor or its subcontractors must procure janitorial products from BISM if the specified products are available.

During fiscal year 2015, the annual sales from the federal-related operations totaled \$67.6 million, sales to State agencies and contractors totaled \$10.5 million and sales to other private entities totaled \$6.0 million. Based on BISM's fiscal year 2015 audited financial statements, revenue (\$85.1 million)

exceeded expenses (\$84.7 million) resulting in an excess of operating revenue over expenses totaling \$343,000. However, after factoring in other revenue and expenses, such as a loss on investments and interest expense, there was a negative \$483,784 change in net assets (a loss). As of June 30, 2015, BISM's unrestricted assets totaled \$18.6 million, the majority of which consisted of property, plant, and equipment.

Governance Structure

BISM is governed by an 11 member Board of Trustees, of whom at least 4 shall be blind, appointed by the Governor with the advice and consent of the Senate. Each Board member serves a 3-year term, and the terms are staggered amongst the members. According to State law, the Board shall:

1. maintain in Baltimore City a training and employment center for blind individuals;
2. operate BISM for the labor and manufactures of all blind adult residents of the State who give satisfactory evidence of character and ability to do the work required;
3. use the profits arising from the operation of BISM to further its mission;
4. acquire suitable quarters in the State;
5. keep proper records of its funds and accounts; and
6. report annually to the Governor, the General Assembly, and the chair of the Joint Audit Committee on the condition and operations of BISM, including a thorough discussion of its programs and the participation of the blind community in these programs.

To assist the Board in its duties and provide for the daily operation of BISM, there is a senior management team, under the leadership of the BISM President (chief executive officer). The President, who reports to the Board's Chairperson, serves at the Board's pleasure under a four-year employment contract that specifies the duties and compensation of the President, including a base salary, bonus program, fringe benefits, and vacation and holiday leave. The current contractual duties of the President include the "ultimate responsibility for managing the business and affairs of BISM," serving as principal spokesperson for BISM, seeking out and developing strategies to strengthen BISM, preparing an annual budget, and "in keeping with BISM's mission, implement tactics and programs to accomplish BISM's objectives."

BISM's senior management team includes a Chief Operating Officer, Chief Accounting Officer, a Vice-President of Sales and Marketing, Director of Manufacturing, and a Director of Rehabilitation. These management positions report to the President, and each employee's employment compensation is set by the President.

Overview of Operations

BISM's mission is "to provide stable career opportunities, innovative rehabilitation programs, quality products and services, and to develop resources for training and education." Accordingly, BISM's primary operational activities focus on:

- sales to State agencies;
- sales to federal agencies and retail sales to individuals at federal installations; and
- rehabilitation and training to blind individuals in Maryland.

Products offered for sale to State agencies include: paper pads, hand soaps, sanitizers, janitorial chemicals, floor care products, medical exam gloves, can liners, toilet paper, paper towels, chemicals for cleaning kitchen ware and cutlery, bleach, and personal care products. BISM sales to State agencies also includes custom labeled pint and five-gallon purified bottled water.

The federal sales relate primarily to the manufacture and sale of military clothing and the retail operation of eight base supply centers located on federal installations under the federal AbilityOne Program. The textile operation has been providing uniforms and other fabric products to the US military since the early 1990's. (This function is also performed by 27 other blind organizations nationwide.) The base supply centers sell office supplies, cleaning products, tools, and uniforms to base customers; however, the items for sale are not necessarily manufactured or produced by BISM. (Base supply centers are also operated by 17 other blind organizations nationwide.)

BISM also provides rehabilitation and training to the blind in Maryland. The purpose is to provide blind and visually impaired individuals with the knowledge and skills that they need to live independent lives. These services are provided at no cost to the participants at various locations throughout Maryland. The cost of the services is partially funded by the Maryland State Department of Education's (MSDE) Division of Rehabilitation Services (DORS) with the remaining costs funded by BISM.

BISM Overall Sales Activity and Workforce Data

Sales from operations accounted for over 98 percent of total BISM revenue during the fiscal year ended June 30, 2015 (Table 1 lists BISM's fiscal year 2015 sales by source). Remaining revenues consist of a MSDE grant of approximately \$531,000, MSDE fee-for-service payments of \$295,000, and miscellaneous revenues and other grants of approximately \$365,000.

Table 1 BISM Fiscal Year 2015 Sales by Source	
Source	Sales
Textiles (sales to federal government)	\$ 47,085,600
Base Supply Centers (at federal installations)	20,474,702
Baltimore Plant Operations	<u>16,448,329*</u>
Total	\$ 84,008,631

Source: BISM records (unaudited)

* Includes sales to State agencies and State contractors under BISM's procurement preference totaling \$10,482,399, with the remainder of the sales to private entities.

The majority (80 percent) of its fiscal year 2015 sales was derived from two sources related to its business associations with the federal government – its textile operations (with related manufacturing facilities in Cumberland, Baltimore County, Salisbury, and Raleigh, North Carolina) and its retail operations at base supply centers located at federal installations in Maryland, as well as other states and the District of Columbia. Sales to State agencies of goods manufactured or produced at its Baltimore County facility accounted for 12.5 percent of sales and the remaining (7.5 percent) was sold to other private entities. The portion of federal to State sales activity has been relatively consistent over the five year period ended June 30, 2015.

BISM's operations (including sales, manufacturing, administration, rehabilitation, and training) are staffed by both blind and sighted employees. As of June 30, 2015, BISM provided employment for 578 individuals (referred to as associates) of whom 37 percent were blind. This included 130 sighted MMS employees. Table 2 presents agency-wide employment data, broken down between blind and sighted employees for fiscal years 2011 to 2015. As shown in the table, the percent of blind employees has remained between 36 and 40 percent during those years.

Table 2
Average Number and Percentage of Blind and Sighted Employees
at the end of Fiscal Year 2011 through Fiscal Year 2015

Fiscal Year	BISM Blind Employees	Sighted Employees		Total Employees	Percentage of Blind Employees	Percentage of Sighted Employees	
		BISM	MMS			BISM	MMS
2011	151	135	118	404	37%	34%	29%
2012	164	214	74	452	36%	47%	16%
2013	154	153	113	420	37%	36%	27%
2014	151	153	69	373	40%	41%	19%
2015	216	232	130	578	37%	40%	23%
5-Year Average	167	177	101	445	38%	40%	23%

Source: BISM records

Regarding employment of the blind, BISM records indicate that all blind employees make above the minimum wage, plus receive fringe benefits (for example, health insurance and paid vacations).

Baltimore Plant Sales to State Agencies

Products Offered

According to BISM management, the products selected for selling to State agencies consider marketability, profitability, and suitability for blind employment. According to BISM's website catalogue, it offers over 400 products to State agencies, which are also purchased by State contractors.¹

The prime manufacturing, production, and warehousing operation for the products offered for sale to State agencies is located in Baltimore County, along with its headquarters offices. There are, however, some functions related to the manufacture of fabric products for the federal government also performed at that location.

The products sold to the State can be categorized by three types of processing methodologies utilized by BISM, which are described below with fiscal year 2015 State agency sales for each category.

- Warehoused products are items that are purchased in bulk quantities, but pre-packaged by the third party manufacturer in small resalable units, that

¹ These products are also sold to private entities with fiscal year 2015 sales totaling approximately \$6 million.

are stored in the BISM warehouse and sold to the State agency in quantities that meet the agency's requirements (sales of \$5.9 million).

- Manufactured or assembled products are those items that start with a raw material and have some type of operation performed to transform it into a usable finished product, such as concentrated cleaning chemicals that are diluted and packaged into consumer usable strengths (sales of \$2.5 million).
- Repackaged products are those items that are purchased in bulk, but that are packaged by BISM employees into smaller user friendly quantities. For example, rolls of trash liners are purchased in bulk and are packaged into boxes containing a specified number of rolls for sale (sales of \$2.1 million). Also included in this category, is the assembly of "kits," for certain customers which represent an assortment of different items placed into one package.

BISM management advised us that it continuously attempts to identify vendors that will sell products to them in a bulk form for repacking purposes. BISM attributes two benefits to this process: (1) products can be purchased at a lower cost, which it can pass along to the State; and (2) repackaging tasks can be readily performed by blind individuals. BISM has a significant number of products on the State preference list that represent repackaging of bulk purchases into smaller units for sale.

Product Pricing

Generally, for each new product brought to market, a four-step process is applied. First, BISM determines if a product is marketable and adaptable to blind labor, if appropriate supplies are available, and that there are no legal barriers. If all three conditions are satisfied, during the next step a product manufacturing, assembly, packaging, or distribution process is developed. As a third step, BISM conducts a cost analysis of the product and the amount of blind labor required to produce a finished product is measured. For the final step, a fair market price study is performed and BISM decides if the product can be offered for sale at a competitive price. If the product is to be offered for sale to State agencies under BISM's preference, the proposed pricing of the product is submitted to the Pricing Committee for consideration.

Prices for the BISM items offered for sale under the preference are to be set by a pricing committee established by State law. Prior to July 1, 2015, the BISM Pricing Committee consisted of designees from the Secretary of General Services, the Secretary of Public Safety and Correctional Services, the President of BISM, and a Board member of the National Federation of the

Blind of Maryland. Applicable State regulations required the Committee, with the assistance of the staff of BISM, to meet at least annually to set prices that reflect the current average market prices for the supplies and services BISM provides to State agencies.

Effective July 1, 2015, State law established a successor committee named the Pricing and Selection Committee for Blind Industries and Services of Maryland and the Employment Works Program. The Committee consists of five Maryland officials (or their designee); the Secretaries of: Transportation; General Services; Public Safety and Correctional Services; and Labor, Licensing, and Regulation; plus the Assistant Secretary of Vocational Rehabilitation within MSDE. The Committee is to ensure that supplies and services provided by BISM create work opportunities for individuals, which BISM was established to assist, and set the fair market prices of supplies and services that BISM provides under preference to State agencies. The Committee is also responsible for maintaining a current list of supplies and services that BISM provides, periodically reviewing and revising the list, and sending the list to the Secretary of the Department of General Services who shall make the lists available to State agencies.

Federal Manufacturing Sales and Retail Operations

BISM operates a textile manufacturing plant in Raleigh, North Carolina, whose output solely relates to BISM's federal contract sales for US military clothing. In addition, BISM's facilities in Cumberland and Salisbury, Maryland perform textile manufacturing work for the federal government, and to some extent, so does the Baltimore County plant.

The textile work at these Maryland locations is assisted by the work performed under a separate non-profit charitable organization incorporated in Maryland. This organization is Maryland Manufacturing Services, Inc (MMS) and is headquartered in Salisbury, Maryland. This entity was created to enable BISM to use sighted individuals to perform certain tasks (sewing) that could not be performed by blind persons, while allowing BISM to still meet federal requirements related to blind labor participation rates for products sold to federal agencies. That is, individuals employed by MMS are not blind, but because it is a separate entity, the work of those individuals does not affect the labor participation rate for the applicable products for federal purposes. BISM provides administrative support for MMS. This support includes maintaining the payroll records for MMS employees which are not on BISM's payroll. MMS operations provide employment and training to economically

disadvantaged and under-employed residents of Salisbury and Cumberland, where they work side-by-side with BISM employees.

Through the federal AbilityOne Program, BISM operates five supply centers or stores on military installations and in federal buildings, located in Delaware, Virginia, Kentucky, and the District of Columbia. In addition, three centers or stores are operated in Maryland.

Rehabilitation and Training Programs

Services Provided and Funding

BISM's Rehabilitation Division serves the blind and visually-impaired in Maryland by providing them with life skills training that will lead to self-reliance and independence. As of June 30, 2015, the Division had a staff of 27 persons. The Division provides rehabilitation and training at locations throughout Maryland. Total rehabilitation and training expenditures for fiscal year 2015 were \$1,579,533 of which \$876,402 was funded by MSDE's Division of Rehabilitation Services (DORS) and \$703,131 was financed by BISM.

Generally, the blind and visually-impaired in need of training and employment are referred to BISM by DORS. Under federal regulations, DORS is the designated State agency responsible for conducting outreach efforts intended to ensure blind persons know where to apply for rehabilitation services and to identify possible employment opportunities. Consequently, DORS acts as a gatekeeper qualifying individuals for services and deciding to which service provider they will be sent.

All participants in BISM rehabilitation and training programs are referred by DORS and the two parties enter into multi-year cooperative agreements to govern this referral process, the most recent agreement at the time of our audit covered the period of June 2012 to June 2015. Under the cooperative agreement, BISM performs certain evaluation and training services, as well as receives reimbursement for certain residential housing costs for individuals participating in the Comprehensive Orientation, Rehabilitation, and Empowerment (CORE) program.

The CORE program is an intensive residential program that enables students to acquire diverse skills that can be applied at home, in school, and on the job. The senior programs are for individuals who are 55 years of age and older that are blind or have low vision. The skills taught are similar to the CORE program but are delivered on a less intensive, non-residential basis.

BISM also provides limited in-home training to meet the needs of those who wish to remain in their home environment. These programs are partially funded by DORS through an annual grant agreement and a separate fee for service arrangement under the cooperative agreement. During fiscal year 2015, BISM expended \$1,374,649 to provide the CORE program (including residential housing costs), senior programs, and in-home training. BISM received a grant from DORS of \$531,115 to partially fund the CORE and senior programs, plus an additional \$50,000 Independent Living Older Blind (ILOB) grant for seniors. BISM also received \$267,587 from DORS as reimbursements under the cooperative agreement fee for service arrangement. The remaining expenses of these programs totaling \$525,947 were financed by BISM.

BISM also offers two youth programs – a three-week residential program for middle school students and a seven-week residential program for high school students – that provide independent skills development, confidence building activities, and residential living experiences. During fiscal year 2015, BISM expended \$204,884 on these programs. BISM received \$27,700 from DORS as reimbursements under the cooperative agreement fee for service arrangement and the remaining expenses of \$177,184 were financed by BISM.

Tables 3 and 4 provide details on the number of rehabilitation and training hours provided and participants served.

Table 3 Number of Rehabilitation and Training Hours Provided by Program Fiscal Years 2011-2015						
Fiscal Year	CORE	Senior	Senior (ILOB)	Youth	In-home Training	Total
2011	25,077	14,512	858	❶	349	40,796
2012	28,455	16,442	905	4,640	447	50,889
2013	36,621	15,249	805	4,640	119	57,434
2014	46,480	13,926	905	5,804	996	68,111
2015	45,123	15,608	875	8,992	864	71,462
Average	36,351	15,147	870	6,019	555	57,738

Source: BISM

❶ - Data not available. Average for "Youth" is 4-year and Annual Total average of 57,738 is less any 2011 "Youth" hours.

Table 4 Number of Rehabilitation and Training Program Participants by Program Fiscal Years 2011-2015					
Fiscal Year	CORE	Senior Services (including ILOB)	Youth	In-home Training	Total
2011	16	296	40	❶	352
2012	26	357	47	❶	430
2013	25	283	91	❶	399
2014	27	340	57	249	673
2015	27	350	175	216	768
Average	24	325	82	233	524

Source: BISM

❶- Data not available. Average for “In-home Training” is 2-year, and Annual Total average of 524 is less any FY 2011, 2012 or 2013 “In-home Training” participants.

Relationship with the Maryland School for the Blind

The Maryland School for the Blind (MSB) is a private, statewide resource center that assists local school systems and families by providing outreach, educational, and residential programs to children and youth from infancy to age 21 who are blind or visually impaired including those with multiple disabilities. The students that attend MSB are a different population than those who participate in BISM programs. MSB students also typically have other disabilities in addition to blindness. Students must be referred for placement in the MSB program through their local school’s Individualized Education Program team. BISM only begins accepting students, into their youth program, after they have entered the fifth grade (approximately 11-12 years old). MSB has collaborated with staff from BISM and DORS over the years to jointly offer and provide various after-school/weekend skill-building sessions for students on topics such as social skills and daily living skills.

BISM In-State and Out-of-State Employment and Sales Data

Maryland Operations

BISM’s Maryland operations in Cumberland, Baltimore County, and two locations in Salisbury, as well as its Maryland rehabilitation and training division, collectively employed 380 of the 578 total employees (including the MMS workforce) as of June 30, 2015, see Table 5. Of the 380 employees, 132 or 35 percent were blind and employed directly by BISM, and of the 248 sighted employees, MMS accounted for 130 (MMS’s workforce is sighted). Table 6 presents BISM-only Maryland employment and shows that a slight majority of BISM’s Maryland workforce is blind.

Exhibit 1 to the report includes tables that further breakdown in-State employment by five job functions.

Table 5 Number and Percentage of Blind and Sighted Employees At BISM Locations in Maryland (including MMS) at the end of Fiscal Years 2011 through 2015							
As of June 30	Blind Employees	Sighted Employees		Total Employees	Percentage of Blind Employees	Percentage of Sighted Employees	
		BISM	MMS			BISM	MMS
2011	136	94	118	348	39%	27%	34%
2012	145	174	74	393	37%	44%	19%
2013	136	115	113	364	37%	32%	31%
2014	133	108	69	310	43%	35%	22%
2015	132	118	130	380	35%	31%	34%
5-Year Average	136	122	101	359	38%	34%	28%

Source: BISM payroll and personnel records

Table 6 Number and Percentage of Blind and Sighted Employees at BISM Locations in Maryland (excluding MMS) at the end of Fiscal Years 2011 through 2015					
As of June 30	Number of Employees		Total Employees	Percentage of Employees	
	Blind	Sighted		Blind	Sighted
2011	136	94	230	59%	41%
2012	145	174	319	45%	55%
2013	136	115	251	54%	46%
2014	133	108	241	55%	45%
2015	132	118	250	53%	47%
5-Year Average	136	122	258	53%	47%

Source: BISM payroll and personnel records

The Baltimore County plant operations supplies janitorial and sanitation products, paper products, and beverage products (bottled water). It also includes a textile cutting operation which is included in the summary of Maryland textile-related operations below. The Baltimore location also houses BISM's administrative personnel. The Baltimore plant location employed 120 employees at the end of fiscal year 2015 (69 sighted and 51 blind), and contributed \$16.4 million in sales.

The work performed at the Cumberland and Salisbury locations relate to BISM's federal textile contract work. BISM's textile-related operations in Maryland employed 240 employees (including MMS) at the end of fiscal year 2015 (169 sighted and 71 blind), and contributed to \$32.3 million in sales.

Finally, BISM operates three AbilityOne stores or supply centers in Maryland on military installations or federal buildings, which as of the end of fiscal year 2015, employed 20 individuals (10 sighted and 10 blind or visually impaired), including 1 sighted non-resident employee, and had \$5.1 million in sales.

Out-of-State Operations

As of June 30, 2015, BISM's out-of-State operations at its textile manufacturing plant in Raleigh, North Carolina and the five AbilityOne stores employed 198 individuals. Table 7 presents the number of individuals employed in BISM's out-of-State operations, broken down by sighted and blind employees. The majority of employees are sighted.

Exhibit 1 to the report includes tables that further breakdown out-of-State employment by five job functions.

Table 7 Number and Percentage of Blind and Sighted Employees at BISM Operations Located Outside of Maryland At the end of Fiscal Years 2011 through 2015					
As of June 30	Total Blind Employees	Total Sighted Employees	Total Blind and Sighted Employees	Percentage of Blind Employees	Percentage of Sighted Employees
2011	15	41	56	27%	73%
2012	19	40	59	32%	68%
2013	18	38	56	32%	68%
2014	18	45	63	29%	71%
2015	84	114	198	42%	58%
5-Year Average	31	56	86	32%	68%

Source: BISM payroll and personnel records

As of June 30, 2015, the textile manufacturing plant employed 157 individuals (85 sighted and 72 blind). Fiscal year 2015 sales for the clothing manufactured at that location totaled \$14.8 million.

BISM's five AbilityOne stores in other states employed 41 employees (29 sighted and 12 blind) as June 30, 2015. Those locations accounted for fiscal year 2015 sales of \$15.4 million.

Audit Scope, Objectives, and Methodology

Audit Scope

We conducted a performance audit of certain operational aspects of the Blind Industries and Services of Maryland (BISM). The scope of the audit included an evaluation of BISM's employment and training strategies, pricing policies and practices for supplies and services sold to State agencies, and executive compensation processes. The audit was conducted at the direction of the General Assembly's Joint Audit Committee.

Our audit was performed in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Objectives and Methodology

Our audit had three objectives:

1. To determine whether BISM has established employment and training strategies that promote work, career and training opportunities, and services for blind and visually-impaired persons in Maryland;
2. To determine whether pricing policies and practices provide assurance that Maryland State agencies are paying the fair market prices for BISM-produced supplies and services; and
3. To determine whether BISM has established reasonable processes and standards for setting executive compensation and appropriate ethics requirements for BISM management and board members.

To accomplish our objectives, we reviewed applicable State laws, and the policies and procedures established by BISM, governing their business operations and training, rehabilitation, and education programs, as well as the terms of applicable State grant agreements. We interviewed personnel at BISM, the Maryland State Department of Education (MSDE), the Maryland Department of General Services, selected county government agencies, our legal counsel to the General Assembly (see below), and certain BISM sales customers. We inspected BISM and certain related State documents and

records, and observed BISM business operations and management and oversight of its training, rehabilitation, and education programs. Our test work, as described below, primarily covered BISM's activities for fiscal year 2015.

We conducted tests, using BISM Rehabilitation Division records, to verify the accuracy of program participation totals included in budget documents and annual reports submitted to the State. We also verified compliance with MSDE grant agreement requirements related to those programs funded in part by State grants.

We conducted tests, using BISM product pricing, manufacturing, and sales records, to assess the effectiveness of product pricing processes and appropriateness of production methodologies, and analyze sales trends. We also conducted fair market product pricing research via the Internet for 14 of the highest selling products purchased by the State during fiscal year 2015, and reviewed certain procurement activity related to BISM products of a State university.

Additionally, we contacted certain Maryland State agencies and local school systems and attempted to determine the prices they paid for any items purchased similar to the 14 products we tested. However, our review was inconclusive as it disclosed that none of them had purchased more than a few of the items and the prices paid varied greatly depending on the purchasing methodology used, with the lowest prices being obtained through a competitive solicitation process.

We conducted tests, using BISM payroll and personnel records, to verify the existence and proper classification of employees as to blind or sighted and performed certain employment-related analytical procedures. We also reviewed certain employee compensation levels, using available public records of executive compensation reported by other blind organizations with similar manufacturing operations, sales levels, and training and education programs. Finally, we reviewed BISM's employee ethics policy and tested the related employee reporting process.

Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless otherwise noted, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

Our audit did not include a review of State agency compliance with State procurement preference statutes that require that certain products be purchased from BISM. Additionally, although BISM receives referrals of visually impaired persons from the MSDE Division of Rehabilitative Services (DORS), we did not review DORS outreach or referral procedures.

Advice of Counsel Requested to Interpret Governing Laws

In addition to review and tests of BISM records and surveys of other entities, a key component of our audit methodology in addressing our three objectives, was obtaining advice of counsel from the Office of the Attorney General. We sought formal advice from counsel to the Maryland General Assembly regarding the applicability of certain laws and to clarify the intent of existing State law governing BISM and its operation. Our preliminary review raised three basic questions to which we received the answers below. Certain aspects of the advice received are discussed elsewhere in this report and incorporated into our findings.

1. Is it legal for BISM to own or operate manufacturing and retail businesses located in other states and employ and train blind persons who are not Maryland residents?

BISM has broad authority under the law to further its mission of providing training and employment opportunities for the blind. Previous legal opinions had concluded that BISM was a quasi-governmental entity that could operate like a private entity. BISM could purchase and own investments and properties regardless of where located and could legally operate businesses outside of Maryland and employ and train blind persons who were not Maryland residents.

We were also advised that the establishment of a separate entity, the Maryland Manufacturing Services, Inc. (MMS), with respect to BISM's federal manufacturing activities was permissible.

2. Do all BISM products have to be manufactured or assembled using 75 percent blind direct labor, and can BISM sell items purchased in bulk that are distributed in retail sizes?

In general, in order to receive the procurement preference in the State Finance and Procurement Article, the goods must meet the 75 percent direct labor requirement. The 75 percent direct labor requirement does not, however, apply to janitorial products which are covered by a separate provision in the State Finance and Procurement Article which

was added in 2013. The Attorney General has advised that BISM does not have to manufacture or assemble all of its products. For example, in a 1993 Opinion, the Attorney General opined that the statute did not require that BISM manufacture the products sold in its vending machines, so long as 75 percent of the work force for vending machine services consists of blind individuals. For similar reasons, BISM may buy products in bulk and repackage them for sale at retail, so long as the operation meets the 75 percent requirement. It is clear, however, that there must be some level of reprocessing, and that BISM cannot simply procure goods and resell them without some intermediate step.

3. Do existing laws clearly delineate current BISM business practices and adequately consider current employment and business circumstances?

The existing laws are open to interpretation. The Attorney General noted in his 1993 Opinion that the plain meaning of the language would mean that BISM could never be a distributor of brand-name merchandise or provide other such services. The Opinion concluded, however, that such a limited interpretation would not be in accordance with the intent of the legislature as reflected in other provisions of the law. As a result, the Opinion interpreted the statute to permit BISM to produce both tangible items and services (operation of vending machines selling national brands qualifies for procurement preference). There are limits, however to the ability to read the language broadly to cover additional employment and training opportunities. The definition of "direct labor hours" in the Commercial Law Article expressly excludes time spent on administration, supervision, shipping, and product inspection, and thus products and services where blind people predominantly serve in these roles do not qualify for the procurement preference. This limitation makes sense in the context of the use of the label "product made by the blind," but it may no longer reflect the range of employment and training that BISM can make available for the blind.

This advice, however, did not consider a 1995 Baltimore City Circuit Court case involving BISM, which led to a court conclusion that BISM is a State agency and as such is not subject to the 75 percent blind direct labor requirements discussed above. This matter is further discussed in finding 2.3.

Fieldwork and Agency Response

Our fieldwork was completed during the period from April 2015 through December 2015. A copy of the draft report was provided to BISM, and Finding 2.3 was provided to the Department of General Services (DGS) and an official of the Maryland Department of Transportation (MDOT), representing the Pricing and Selection Committee for Blind Industries and Services of Maryland and the Employment Works Program. BISM's responses to our findings and recommendations, and the responses from DGS and the Committee to Finding 2.3, appear as an appendix to this report. Since the detailed responses to Recommendation 2.3 from DGS and the Committee were identical, only one version was included in the appendix. As prescribed in State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the parties regarding the results of our review of their responses, as appropriate.

Findings and Recommendations

Objective 1

Blind Industries and Services of Maryland (BISM) Strategies to Promote Work, Career, and Training Opportunities, and Services for Blind and Visually-Impaired Persons in Maryland

Finding 1.1

Until September 2015, BISM had not formally adopted strategies to accomplish organizational goals it established in 2013. Also, BISM has not taken the next step of developing action plans or measures to assess the success of those efforts.

Analysis

Until September 2015, BISM had not formally adopted strategies to accomplish organizational goals it established in 2013. Also, BISM has not taken the next step of developing action plans or measures to assess the success of those efforts.

In March 2013, BISM established overall organization goals for 2020 which included increasing sales to \$250 million annually, employing over 750 associates, hiring more blind associates, and continuing to expand rehabilitation services. The strategies that were recently adopted to address the organizational goals are classified into four initiative areas: employment growth and associate satisfaction; rehabilitation services growth; reputation and visibility enhancement; and financial strength. BISM has not identified the actionable steps necessary to address the strategies identified under each of the four initiatives, nor the related measures to enable an evaluation as to whether those steps are yielding the desired results.

For example, regarding employment growth and associate satisfaction, BISM has identified nine strategies, such as to grow blind jobs by double digits every five years, and to diversify into services and expand commercial product sales, but has not developed the steps for carrying out the strategies. For example, to expand commercial product sales and blind employment opportunities, BISM may choose to market new products. To do so, BISM would need to outline the steps and those responsible for identifying new products and potential consumers, the related labor pool requirements and establish measures (such as sales goals, products introduced) to assess progress.

Regarding rehabilitation services growth, BISM has identified seven strategies, such as to expand/enhance community outreach efforts. BISM needs to identify the steps that should be taken to identify the targeted community groups or individuals, the types of outreach to be performed, and the measures to assess whether those outreach efforts are successful.

Action plans are essential if BISM hopes to achieve its 2020 goals, especially the goal of increasing sales to \$250 million, which equates to approximately tripling its current annual sales activity. This goal seems very ambitious considering that for the five-year period ended fiscal year 2015, sales have only grown by approximately nine percent, and since 2013 sales have actually declined.

BISM's employment goal of 750 individuals by 2020, which excludes Maryland Manufacturing Services, Inc. (MMS) employees, appears questionable. Over the same five-year period employment has increased by 57 percent to 448 persons (sighted and blind), with most of this occurring since 2013, but to attain the desired employment gain would require an increase of 67 percent over the next five years. BISM's goal of double-digit increases in blind employment every five years may be reasonable in that over the five-year period ended June 30 2015, blind employment increased 43 percent, all of which occurred during fiscal year 2015 at locations outside of Maryland. BISM recently advised that it is unaware of any blind individuals locally who need employment.

Recommendation 1.1

We recommend that BISM

- a. develop action plans for its strategic initiatives identifying steps to be taken, those individuals responsible for completing the tasks and related timeframes;**
- b. develop performance measures to assess whether the actions taken are achieving desired results; and**
- c. conduct ongoing monitoring of plans and outcomes.**

Finding 1.2

BISM conducts outreach programs to inform Maryland residents of available services. The needs of blind individuals requesting services appear to be met.

Analysis

BISM conducts outreach programs using various communication methods to inform Maryland residents of its rehabilitation, training, and education services. Our contact with representatives of Maryland State Department of

Education (MSDE) Division of Rehabilitation Services (DORS) and selected county health and human services agencies did not identify any individuals who have requested services BISM offers that have not been served.

BISM's Rehabilitation Division offers programs and services that provide comprehensive blindness education and training for adults, seniors, and youth, which are offered at no cost to qualifying Maryland residents. Individuals are qualified to participate in BISM's programs by DORS, which acts as the gatekeeper for services to the blind and others with certain disabilities, in accordance with federal regulations. BISM uses newspaper, radio, and television advertising to promote the availability of its programs and services, although interested individuals who contact BISM directly are referred to DORS, which determines those individuals who can participate in BISM programs.

According to BISM's records, during fiscal year 2015, BISM provided a total of 71,462 hours of blindness skills education and training through its Comprehensive Orientation, Rehabilitation, and Empowerment (CORE), senior services, youth and in-home programs. We determined that, collectively, these programs were held in 20 of the 24 Maryland subdivisions between fiscal years 2012 and 2014. We were advised by BISM that even though a program was not provided in four subdivisions, visually impaired residents of those subdivisions may and do receive services at a location in an adjoining subdivision.

Also, we contacted several county health and social services departments to determine if they had received any unmet requests for services from blind individuals. They advised us that they generally do not receive such requests or that they refer such individuals to DORS, as required, for placement. Finally, DORS' officials advised us that they were unaware of any unmet requests from blind individuals for BISM services and there was no waiting list for blind individuals DORS had referred to BISM.

Recommendation 1.2

No recommendation required

Finding 1.3

BISM has assumed more financial responsibility over its various rehabilitation and training programs offered to blind individuals.

Analysis

The Maryland General Assembly expressed an intent in the fiscal year 1998 budget bill language that BISM move to self-sufficiency so that State contributions could be reduced beginning in fiscal year 2000. BISM has made some strides toward self-sufficiency but has not achieved this objective. However since the 2006 session of the General Assembly there has been no mention of this issue in the budget bill analyses. Further, we contacted staff at the Department of Legislative Services' Office of Policy Analysis who confirmed that at present, there is no indication that the issue of self-sufficiency is a continuing concern to the budget committees.

Annual State grant awards to BISM declined from a high of \$1.9 million for fiscal year 1998 to a low of approximately \$531,000 for fiscal years 2012 to 2015. In addition to the annual grant awarded, BISM received from DORS fee-for-service reimbursements totaling approximately \$295,000 and another \$50,000 grant during fiscal year 2015. In total, funds received from DORS during fiscal year 2015 totaled approximately \$876,000. BISM's total rehabilitation and training expenditures for that year were \$1,579,533. Exhibit 2 contains a graph comparing the total BISM sales, total rehabilitation and training expenses, and the State support provided to BISM (grants plus fee-for-service reimbursements) for those expenses from fiscal year 1998 through fiscal year 2015.

Our review of fiscal year 2015 activity under the annual DORS grant disclosed that the grant funds were used for the benefit of blind Maryland residents. BISM used the entirety of its fiscal year 2015 State grant from DORS to fund its CORE Program and a senior services program. The DORS grant is not intended to fully fund the rehabilitation and training program, but rather to supplement the CORE and senior programs. We noted that 24 of the 27 fiscal year 2015 participants in the CORE program were blind Maryland residents (88 percent), whereas the DORS funded portion of program expenses (including expenses covered under the cooperative agreement) totaled approximately 80 percent.

The fiscal year 2015 DORS annual grant for the CORE and senior programs required BISM to provide a minimum of 45,540 training hours. For fiscal year 2015, BISM reported that it provided 60,731 training hours for CORE and senior services. We performed certain analyses of program attendance

records and believe that BISM's reported number of training hours actually provided is reasonable.

Recommendation 1.3

No recommendation required

Finding 1.4

Many former CORE students completing the program have reported achieving successful post-training outcomes, but BISM has not established a process for tracking student satisfaction with some of its services.

Analysis

Many former BISM students completing the CORE program have reported achieving successful post-training outcomes. BISM considers finding a job, going on to higher education, or being able to live independently as a successful outcome. However, BISM has not established a process for tracking student satisfaction with some of its services.

Although BISM is not responsible for employment placement services under their agreement with DORS, it does perform follow-up contacts with former students. According to BISM, many former BISM students completing the CORE program have reported successful outcomes. For example, of the 11 students who completed the BISM CORE program in fiscal year 2015, 3 obtained employment with BISM, 2 obtained employment with private companies, and 4 are currently enrolled in college/vocational school. See Table 8 for CORE program student outcomes for the years 2011 to 2015.

Table 8 BISM CORE Program Outcomes Fiscal Years 2011 – 2015							
Fiscal Year	Number of CORE Participants *	Number of Participants Completing CORE	CORE Completion Outcomes at Fiscal Year-End				
			Number Employed w/BISM	Number Employed Outside BISM	Number in College/Vocational Training	Other (learned skills for indep. living)	Not Employed
2011	16	2	1	0	0	0	1
2012	26	6	2	1	1	2	0
2013	25	12	1	4	4	0	3
2014	27	14	4	0	3	6	1
2015	27	11	3	2	4	2	0
Totals	121	45	11	7	12	10	5

Source: BISM

* The CORE program is a rolling program that does not have fixed starting and ending dates for participants. The outcomes are as of each fiscal year-end. For example, of the 27 participants in fiscal year 2015, 11 had completed the program during the year, 12 were still actively in the program at fiscal year-end, 3 withdrew voluntarily, and 1 was terminated for cause.

In addition, BISM surveys past CORE program participants and participants in some senior programs regarding their satisfaction with the level of service provided by BISM. Survey questions include those designed to measure BISM's success in helping participants, such as achieving their goals, increasing their ability to function in society, learning new information and skills, plus instructor effectiveness. Our review of the results of the past three years of participant surveys (fiscal years 2013 to 2015), disclosed that average customer satisfaction exceeded 90 percent in each case.

BISM also surveys participants of its summer youth programs through an Internet survey tool. The survey requests respondents to provide written comments answering 15 questions, such as, which class was the most challenging, which seminar was the most significant to you, and how are you now more confident. However, BISM does not survey participants of its in-home training, workshops, or one day programs to assess its performance and measure client satisfaction.

Recommendation 1.4

We recommend that BISM establish a formal process for determining and tracking student/client satisfaction for all its training and rehabilitation services.

Objective 2

BISM Pricing Policies and Practices for Supplies and Services Sold to Maryland State Agencies

Finding 2.1

Pricing committees established by State law had not conducted a comprehensive review of the prices of BISM's supplies and services available for sale to State agencies.

Analysis

The independent pricing committees responsible for determining the fair market prices of BISM supplies (products) and services offered under the State procurement preference have not performed a comprehensive price review of all such BISM supplies and services. Rather, the price charged

State agencies and posted on BISM's website for hundreds of products, has been set by BISM without any formal oversight or approval from the committee. Consequently, there is no assurance that BISM prices reflect the fair market prices of the supplies and services offered to State agencies, as required by law.

Prior to July 1, 2015, State law established a BISM Pricing Committee that consisted of designees from the Secretary of General Services (DGS), the Secretary of Public Safety and Correctional Services (DPSCS), the President of BISM, and a Board member of the National Federation of the Blind of Maryland (NFB). Applicable State regulations required the Committee, with the assistance of the staff of BISM, to meet at least annually to set prices that reflect the fair market prices for the supplies and services BISM provides to State agencies.

An OLA audit report on the DGS Office of Procurement and Logistics issued in November 2013 found that the Committee had not determined and published the fair market prices of BISM supplies and services as required and, as of October 2013, had not met since July 2012.

During the course of this audit, we obtained and reviewed Committee records for calendar years 2014 and 2015² and found that the Committee did not evaluate the fair market prices of all products and services included on the product master list on BISM's website that it offers for sale to the State. We were advised by BISM that for that period, the Committee reviewed the prices for new BISM products and evaluated the fair market prices. However, due to a lack of documentation from the Committee and BISM, we were unable to determine how many of the 415 products sold to the State by BISM in fiscal year 2015 were subjected to the Committee's review and approval. According to a Committee representative, it did not conduct independent research for any BISM products, instead relying solely on the pricing information provided by BISM.

Our review found that BISM's pricing research was not always adequately documented and BISM had not established a policy on how long to retain such research. BISM only began retaining documentation of its product fair market pricing research beginning in October 2014. Based on our review of this documentation BISM conducted research on comparable products using the internet (OLA used a similar approach in testing product prices in Finding 2.2).

² The Committee met three times during that period in January and October 2014, and in June 2015. The Committee did not meet in calendar year 2013.

Furthermore, DGS management advised that as of October 15, 2015, the new pricing committee that was created as a result of legislation that passed during the 2015 Session of the Maryland General Assembly effective July 1, 2015 had not yet met to set the prices for BISM supplies and services. Also, DGS has not made a price list available to State agencies. This committee, named the Pricing and Selection Committee for Blind Industries and Services of Maryland and the Employment Works Program, is the successor of the BISM Pricing Committee, which was eliminated by the new law. The new Committee consists of the Secretaries of DGS and DPSCS, but replacing the BISM and NFB members with the Secretary of Transportation, Assistant Secretary for Vocational Rehabilitation within the State Department of Education, and the Secretary of Labor, Licensing and Regulation, or their respective designees.

Under the new law, the Pricing and Selection Committee shall set the prices of supplies and services that BISM provides to reflect their fair market prices. The committee is also responsible for maintaining a current list of those supplies and services, periodically reviewing and revising the list, and sending the list to DGS. DGS is required to make a price list of those supplies and services available to State agencies

Recommendation 2.1

We recommend that

- a. the Pricing and Selection Committee set the fair market prices of all BISM products and services for sale to the State;**
- b. the Committee maintain a current list of those products and services, including making timely revisions to the list as necessary, and send the list to DGS;**
- c. DGS make the Committee approved list of BISM supplies and services available to State agencies; and**
- d. BISM retain documentation of initial product pricing and maintain complete records of supplies or services submitted for pricing to the Committee.**

Finding 2.2

Based on our review of selected BISM products, BISM prices, on an overall basis, were competitive with the prices of similar third-party competitor products offered for sale to the public.

Analysis

Based on our review of selected BISM products, BISM prices, on an overall basis, were competitive with Internet prices of similar third-party competitor products offered for sale to the public. However, the methodology used to perform our price comparisons and reach that conclusion had certain limitations that could have affected our results. For example, State regulations describe current average market price as the basis for BISM prices. Consequently, the Internet prices we obtained were at a particular point of time and, therefore, might not have been representative of the prices available at other times. Also, the determination of the average market price for a product is influenced by the number of vendors surveyed and the disparity in their prices, as one vendor with a widely different price (either higher or lower) could skew the average.

We also identified at least three other factors that make a reliable price comparison difficult to perform.

1. Shipping costs could be a factor. BISM offers free shipping, as did some vendors, while other vendors offered free shipping with purchases over a certain dollar amount. If separately charged, we did not consider shipping costs when determining vendors' prices.
2. Product quality could vary. Our search relied on the accuracy of product descriptions and quantities (for example, volume) offered by Internet vendors, but we could not gauge the quality of those products as compared to BISM products.
3. Volume pricing discounts could be offered by Internet vendors. For example, BISM will offer certain volume discounts to State agencies and it is likely that other vendors would do the same depending on the quantity purchased, although this could not be reasonably determined through our search.

We selected 14 of the highest selling products based on fiscal year 2015 BISM sales in dollars to the State (total sales of products tested were \$4.46 million), and we performed an Internet search to identify the prices at which a similar product could be purchased based on product description. We obtained five prices for each product during the period from September 18, 2015 through September 22, 2015 (note, prices can vary daily). In total, prices were obtained from 35 different vendors.

Exhibit 3 contains the result of our survey and provides the description of each product; the number of units sold to the State during fiscal year 2015; the 2015 total dollar sales to the State; the average BISM price (based on

actual 2015 sales activity)³; the BISM list price as of July 1, 2015 (the most recent published price); and the low, average, median, and high Internet prices. We included median Internet prices to provide an additional comparison (as previously mentioned average market prices from the Internet vendors would be subject to the effect of one vendor with a highly divergent price). The results of the pricing comparisons are as follows:

Comparison of BISM Prices to the Average Internet Prices

Our comparison of the average BISM unit prices paid by the State during fiscal year 2015 (after discounts) to the average Internet prices offered by vendors, disclosed that 12 of the 14 items were priced lower by BISM. Based on the quantities purchased by the State during fiscal year 2015, the cost for all 14 items would be \$1,052,000 less from BISM based on the average BISM prices versus the average prices offered by the vendors.

Our comparison of the BISM list prices to the average Internet prices showed that 10 of the 14 items were priced lower by BISM. Based on the quantities purchased by the State during fiscal year 2015, the cost for all 14 items was \$344,112 less from BISM based on the BISM list prices versus the average prices offered by the vendors.

Comparison of BISM Prices to the Lowest Internet Prices

Our comparison of the average BISM unit prices paid by the State during fiscal year 2015 (after discounts) to the lowest Internet prices offered by vendors, disclosed that 8 of the 14 items were priced lower by BISM. Based on the quantities purchased by the State during fiscal year 2015, the cost for all 14 items would be \$877 more from BISM based on the average BISM prices versus the lowest prices offered by the vendors.

Our comparison of the BISM list prices to the lowest Internet prices showed that for 11 of the 14 items, other vendors had lower prices. Based on the quantities purchased by the State during fiscal year 2015, the cost for all 14 items was \$708,000 more from BISM based on the BISM list prices versus the lowest prices offered by the vendors.

Comparison of BISM Prices to the Median Internet Prices

Our comparison of the average BISM unit prices paid by the State during fiscal year 2015 (after discounts) to the median Internet prices of vendors, disclosed that 8 of the 14 items were priced lower by BISM. Based on the quantities purchased by the State during fiscal year 2015, the cost for all 14

³ Due to volume discounts, the total dollar sales divided by the total units sold will not equal the BISM list price. We calculated an average BISM unit price using actual sales figures (this is lower than the list price and reflects any discounts).

items was \$966,000 less from BISM based on the average BISM prices versus the median prices offered by the vendors.

Our comparison of the BISM list prices to the median Internet prices showed that for 8 of the 14 items, the BISM prices were lower. Based on the quantities purchased by the State during fiscal year 2015, the cost for all 14 items was \$258,000 less from BISM based on the BISM list prices versus the median internet prices offered by the vendors.

Notwithstanding the limitations noted above, our analysis indicates that in four of the six price comparison scenarios, BISM's prices were collectively more favorable for the 14 products State agencies bought from BISM during fiscal year 2015. Two of those four favorable scenarios are based on using the average market prices, which should be considered by the pricing committee to determine fair market prices according to State regulations.

Finally, we performed an additional procedure to determine the reasonableness of BISM pricing, using information provided to BISM by a State university that requested prices for products it previously obtained from a contractor. In this regard, State law enacted in 2013 now requires that a State maintenance contract with a component for housekeeping or janitorial services include a provision requiring the prime contractor to procure janitorial products from BISM when the specified products are available from BISM.

Using product, price and quantity information supplied by the university, we determined the university could potentially save \$63,400 under a contract it recently awarded for janitorial services. BISM offers 56 products similar to the products that the university had purchased under a previous contract with another vendor. The current BISM list prices for 19 of those products were lower and the other 37 were higher than the previous vendor's prices, without considering discounts BISM might offer. Even so, if the university purchases the 56 products from BISM at the same quantities that it purchased from the previous vendor, the university could still realize a net savings of approximately \$63,400.

Recommendation 2.2

No recommendation required.

Finding 2.3

Differing legal opinions and a court ruling raise questions as to whether the products BISM sells to State agencies under the procurement preference must meet a certain threshold of direct blind labor hours as specified in State law.

Analysis

Differing legal opinions and a court ruling raise questions as to whether the products BISM sells to State agencies under the procurement preference must meet a certain threshold of direct blind labor hours as specified in State law. Based on legal advice we sought, counsel to the General Assembly reaffirmed a 1993 Attorney General's Opinion that concluded that only products with at least 75 percent blind labor qualify for the BISM State procurement preference.

BISM disagrees with that conclusion based on a 1995 Baltimore City Circuit Court conclusion. Consequently, BISM does not maintain records that would be necessary to identify direct blind labor hours for products sold to State agencies.

Since the 1995 Court decision, BISM has relocated to Baltimore County. According to legal counsel, if the matter is again raised before the court in another jurisdiction (such as Baltimore County), a different decision could be reached regarding whether BISM is required to comply with the blind labor threshold

The 1993 Opinion concluded that only such supplies and services provided with at least 75 percent blind labor qualify for the BISM State procurement preference, and the 75 percent requirement must be met on a product by product basis. The Opinion was requested by the MSDE's DORS in connection with the preference BISM received to operate blind vending operations at State facilities (which BISM no longer operates).

At that time, BISM asserted that it was a State agency and therefore outside of the scope of the statute requirements. The Opinion did not accept that assertion; rather, it deemed BISM as a "quasi-public corporation." Subsequently, DORS attempted to enforce the 75 percent direct labor requirement and indicated that if BISM would not comply DORS would ignore BISM's State procurement preference.

In response, BISM sought a declaratory judgment essentially reversing the 1993 Attorney General's Opinion by arguing that it was a State agency. In 1995, the Baltimore City Circuit Court concluded the direct labor requirement

does not apply because, in the context of this issue, the Court deemed BISM a State entity, and therefore exempt from the requirement. Based on this decision, which DORS did not appeal, BISM does not maintain records of direct blind labor hours used to produce each product sold to the State.

Based on advice we recently received from legal counsel to the General Assembly, counsel continues to affirm the tenets of the 1993 Attorney General's Opinion and notes that the Circuit Court ruling applies in Baltimore City. BISM's headquarters is currently located in Baltimore County. If a similar motion was brought before the court in another jurisdiction, such as the Baltimore County Circuit Court, a different decision could be reached. Legal counsel advised that although the 1995 judgment could be recognized by Circuit Courts in other jurisdictions, unless that happens, or the Opinion is reviewed or altered by the Office of the Attorney General, that ruling would not take precedence over the 1993 Attorney General's Opinion, as neither would be binding on a court, but each would be entitled to careful consideration.

If the blind labor requirement is applicable to BISM, additional questions are raised about what types of labor would qualify, including whether the law, which was originally enacted a century ago, gives sufficient recognition to the types of work now available to, and can be provided by, the blind.

BISM's original enabling legislation, enacted in 1908, defines direct labor hours as including all hours spent in the manufacturing and assembly of a product made by blind individuals. The definition also specifically excludes time spent in administration, supervision, shipping, and inspection. Consequently, according to legal counsel to the General Assembly, products and services where blind people predominantly serve in those roles do not qualify for the procurement preference. Legal counsel further advised that this limitation makes sense in the context of labeling a product as made by the blind, but it may no longer reflect the range of employment and training that BISM can make available to the blind.

Recommendation 2.3

We recommend that BISM take necessary action to ensure compliance with State law.

Objective 3

Executive Compensation and Ethics Requirements for Management and Board Members

Finding 3.1

The annual evaluation of the Chief Executive Officer, an important aspect in setting the CEO's compensation, was not directly linked to specific measurable BISM goals. Also, the CEO's Performance Bonus Program was not defined and documented.

Analysis

The annual evaluation of the Chief Executive Officer (CEO)⁴, an important aspect in setting the CEO's compensation, was not directly linked to specific measurable BISM goals. Therefore, while a general assessment of the CEO's performance was performed for a number of areas of BISM operations, it was not based on the achievement of specific measurable goals for these areas such as sales, fundraising, employment, and financial sustainability. BISM did conduct salary surveys of comparable positions, which is an acceptable approach for determining the reasonableness of CEO compensation for nonprofits. Nevertheless, the bonus portion of the CEO's compensation, which accounted for 52 percent of the CEO's fiscal year 2016 Board approved compensation of \$472,500, was awarded to reach a desired total compensation level without defining the nature of the Performance Bonus Program referred to in the CEO's Employment Agreements.⁵ Finally, BISM did not retain certain records pertaining to the annual evaluation process and an executed copy of the CEO's contract.

Annual Evaluation

The Board of Directors' evaluation process, which is administered by its Personnel Committee, did not require an assessment of CEO performance with respect to achieving specific goals. The evaluation form lists 33 attributes in 6 categories (relationships with the Board, community and staff, leadership, business and finance, and personal qualities) that are to be individually assessed by each Board member using a scale ranging from one (unsatisfactory) to ten (outstanding). None of the attributes requires an evaluation of achieving specific goals. Such goals could include sales and fundraising growth, increases in employment of the blind, training and rehabilitation outcomes, and financial sustainability. According to the CEO's

⁴ The CEO and President at BISM is the same person.

⁵ For fiscal year 2016, the CEO took a voluntary 10 percent reduction from the original Board approved compensation of \$525,000 (which consisted of a \$250,000 base salary and a bonus of \$275,000). The same percentage reduction was taken for fiscal year 2015.

contract, one of the CEO's primary responsibilities is to implement tactics and programs to accomplish BISM's objectives, so the evaluation process should address the CEO's results in achieving those objectives.

The results of the evaluations conducted during the last quarter in fiscal year 2015 indicate that the Board members were pleased with the CEO's performance. The overall average score for all attributes by the 11 Board members was 9.5 out of 10. The individual evaluation forms completed by the Board members during the preceding two fiscal years were not retained; however, based on the report from the Personnel Committee to the Board, the evaluation results for those years were similar to 2015.

Compensation Survey

The Board, through its Personnel Committee, obtains comparable compensation data from several sources to ensure the CEO's compensation is reasonable, which is a requirement of the Internal Revenue Service for not-for-profit entities. The sources include publicly available annual information returns that tax exempt organizations are required to file by the federal Internal Revenue Service (specifically, the Internal Revenue Service Form 990). Additionally, the Committee considers information from various salary surveys of not-for-profit organizations.

The Committee's annual salary surveys conducted during fiscal years 2013 – 2015 concluded that, after adjusting for the cost of living, the BISM CEO's total compensation (base salary, bonus and other compensation) was comparable to the compensation provided to CEOs of blind industries organizations operating in other parts of the country. After our review of this data and an analysis we performed using gross receipts, we concluded that the BISM CEO's compensation is comparable to compensation paid to three other similarly-sized blind industries organizations.

Using the 2013 Form 990 information (which was the basis for BISM's 2015 salary review and the compensation set for fiscal year 2016), we calculated the percentage of CEO compensation (after adjusting for the cost of living), in relation to gross receipts for BISM (approximately \$91 million) and the three closest blind industries organizations in terms of gross receipts (ranging from \$79 million to \$105 million). We found that the average ratio of adjusted CEO compensation to gross receipts for the three other organizations was 0.55 percent, while BISM's ratio was slightly higher at 0.57 percent (see Exhibit 4). However, for fiscal years 2015 and 2016, BISM's CEO did take a voluntary 10 percent reduction, resulting in salary (including bonus) of \$472,500, which the Board approved. After considering this reduced salary amount (and other compensation typically provided by BISM, such as retirement contributions),

the BISM CEO's compensation to sales ratio would be reduced from 0.57 percent to 0.55 percent, which is the average ratio of the three other organizations' CEO compensation.

This comparison, however, is one approach that could be used to evaluate CEO compensation. Other approaches could be based on the financial results of operations. In addition, any financial-related comparisons would not address an assessment of CEO performance in other areas. Finally, there could be other operational considerations, such as whether an organization provides rehabilitation and training services and the extent to which those operations benefit from purchasing preferences provided under law.

Performance Bonus Program

BISM was unable to provide us with any documentation defining the CEO's bonus, including a description of the intent of the bonus and methodology for determining the bonus amount. The CEO's contract for fiscal year 2016, which at the time of our audit was not signed by any parties, specifies that, in addition to the annual base salary, the CEO may be eligible to receive annual incentive compensation under the "Performance Bonus Program" at the discretion of the Board.

We were advised by the Board Chairman that the bonus awarded by the Board was a mechanism for bridging the difference between the BISM's CEO's base salary, which is included within a broad salary scale for other management employees (see finding 3.2), and the compensation paid to peer CEO's based upon its annual surveys. According to the Chairman, the Board did not feel it necessary to establish a separate pay grade applicable only to one person, the CEO.

Recommendation 3.1

We recommend that BISM

- a. enhance the CEO annual evaluation process by incorporating attributes pertaining to achieving specific measurable goals;**
- b. develop a written performance bonus plan, approved by the Board, that includes a description of the purpose and methodology for determining the CEO's bonus;**
- c. retain documentation supporting compensation determinations (such as Board prepared evaluations, bonus awards) for the period of the applicable employment contract; and**
- d. ensure that employment contracts are properly executed.**

Finding 3.2

BISM has not established a formal compensation review policy for its non-CEO executive-level positions.

Analysis

BISM has not established a formal compensation review policy for its non-CEO executive-level positions to ensure that those individuals are evaluated based on measurable goals and objectives and to demonstrate that the salaries, including sales commissions, for those positions are reasonable.

Nine of the ten non-CEO executive level personnel are evaluated annually by the BISM CEO using the same evaluation form established for evaluating all associates, which essentially represents the entire BISM staff.⁶ The evaluation form collectively includes an assessment of 11 attributes that are classified in three categories: work effectiveness, personal effectiveness, and leadership effectiveness. None of the attributes on those forms requires an evaluation of achieving position goals, such as achieving sales goals and increasing operational efficiency. The results of the evaluation process are used to consider annual salary adjustments.

BISM has not demonstrated that the salaries set for these individuals (as well as the commissions for certain sales and marketing executive positions) were reasonable based on market surveys and analyses. We noted that all ten employees (as well as the CEO), are included in same salary pay grade, which had a salary range from \$93,478 to \$255,000. Included in that category are the Chief Operating Officer, Chief Accounting Officer, Director of Sales and Marketing, and a senior director position, whose individual salaries ranged from approximately \$125,000 to \$184,000 during calendar year 2013.

We compared the 2013 salaries paid by BISM to three of the non-CEO executive staff positions (Chief Operating Officer, Chief Accounting Officer, senior director) to the salaries of employees in similar positions at other like entities using publicly available salary information. Although there may have been some variances in specific job responsibilities, the results suggest that the BISM salaries set for these individuals were comparable to those paid by the other entities.

⁶ The annual evaluation for one employee is prepared by that employee's immediate supervisor, the Vice-President of Sales and Marketing.

Recommendation 3.2

We recommend that BISM

- a. develop a formal compensation review policy for its non-CEO executive staff, which is approved by the Board, to ensure that the performance evaluation process is tailored for those positions and incorporates attributes pertaining to achieving measurable goals and objectives; and
- b. ensure that compensation for the non-CEO executive staff is reasonable based on market surveys and analysis.

Finding 3.3

A comprehensive code of ethics policy and appropriate financial disclosure requirements were established. Policy compliance was properly monitored.

Analysis

A comprehensive code of ethics and appropriate financial disclosure requirements were established and compliance with the policy was properly monitored.

BISM established an employee Conflict of Interest Policy in September 2010,⁷ which originally required the submission of a Disclosure Statement once every two years. Beginning in 2015, the statement is to be filed annually. The Policy and the Disclosure Statement also address the acceptance of gifts by employees. Members of the BISM Board of Trustees and all executive level employees, as well as certain other management employees must complete an annual acknowledgement that they have read the Conflict of Interest Policy and submit it along with an annual Disclosure Statement to the BISM Personnel Department. A designated employee monitors the submission and content of the required disclosures.

Our review of the aforementioned policy and Disclosure Statement found that they were comprehensive, as they addressed those circumstances where conflicts of interest would likely occur and included a requirement that they be updated and resubmitted whenever an employee's circumstances change. Furthermore, we found that the BISM Disclosure Statement was comparable to those included in a certain published guide for non-profits as well as with the content requirements established in the Maryland Public Ethics law for State officials and applicable employees.

Our review of required submissions of BISM Conflict of Interest Policy acknowledgements and Disclosure Statements for fiscal years 2013 and

⁷ At the same time, BISM also established a Whistleblower Policy for employees and a policy on Gift Acceptance by BISM, as a corporation.

2015 disclosed that all employees who were required to file had complied and no apparent conflict of interests was reported.

Recommendation 3.3

No recommendation required.

EXHIBIT 1

BISM Employment Data by Job Function for Maryland and Out-of-State Locations

Page 1 of 2

Number of Blind Employees by Job Function Located in Maryland						
Job Function	2011	2012	2013	2014	2015	5-Year Average
Executive	4	6	5	6	6	5
Distribution	9	9	9	8	10	9
Manufacturing	100	105	99	95	95	99
Sales	1	1	1	1	1	1
Administrative	22	24	22	23	20	22
Blind Total	136	145	136	133	132	

Source: BISM personnel and payroll records

Number of Sighted Employees by Job Function Located in Maryland						
Job Function	2011	2012	2013	2014	2015	5-Year Average
Executive	31	28	29	29	29	29
Distribution	6	6	6	6	5	6
Manufacturing	138	175	154	105	177	150
Sales	3	4	4	4	5	4
Administrative	34	35	35	33	32	34
Sighted Total	212	248	228	177	248	

Source: BISM personnel and payroll records

EXHIBIT 1

BISM Employment Data by Job Function for Maryland and Out-of-State Locations

Page 2 of 2

Number of Blind Employees by Job Function Located Out-of-State						
Job Function	2011	2012	2013	2014	2015	5-Year Average
Executive	2	3	3	3	3	3
Distribution	7	9	10	9	8	9
Manufacturing	3	4	2	3	71	17
Administrative	3	3	3	3	2	3
Blind Total	15	19	18	18	84	

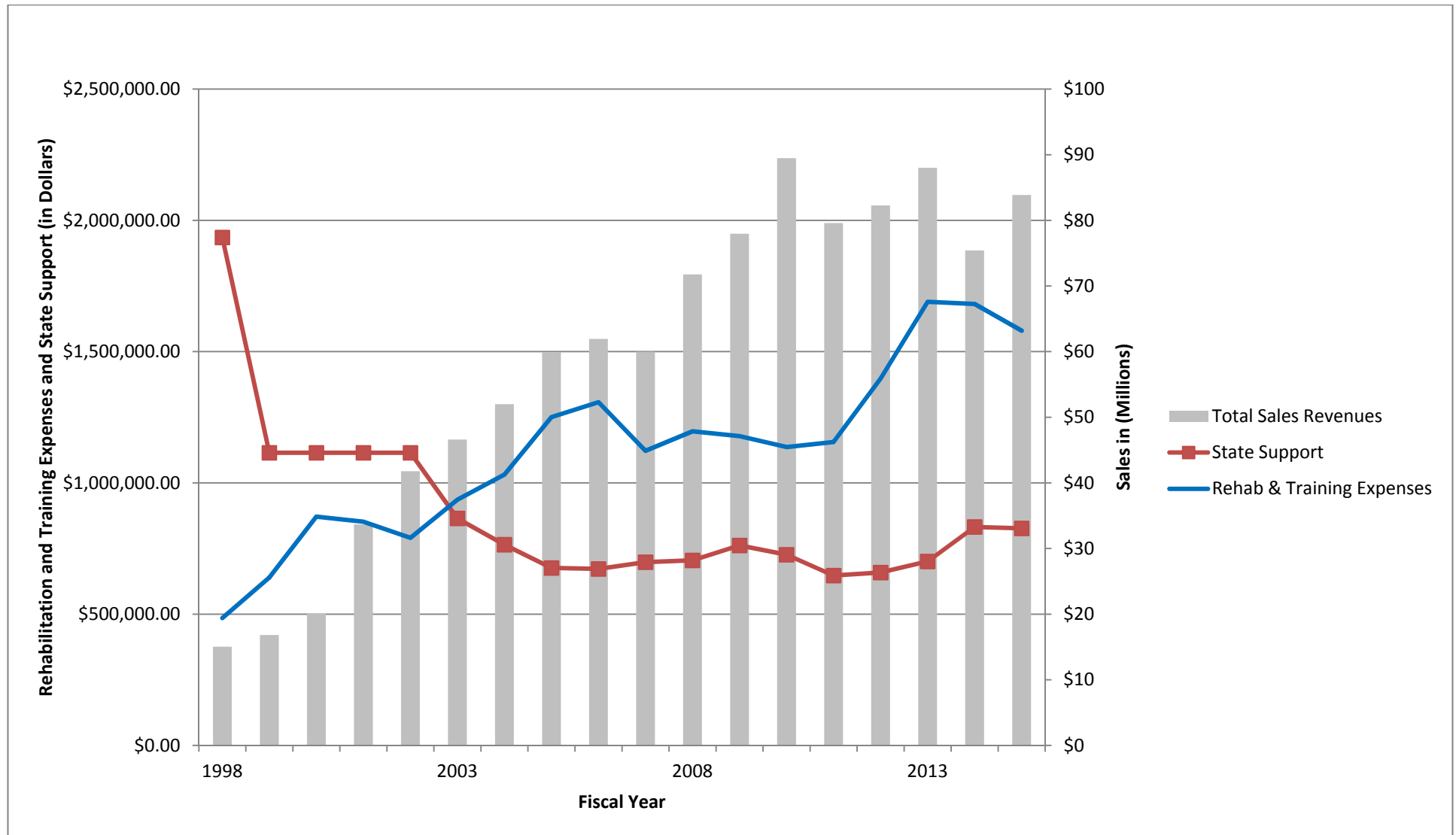
Source: BISM personnel and payroll records

Number of Sighted Employees by Job Function Located Out-of-State						
Job Function	2011	2012	2013	2014	2015	5-Year Average
Executive	14	14	14	17	16	15
Distribution	9	9	9	9	7	9
Manufacturing	9	8	7	12	84	24
Administrative	9	9	8	7	7	8
Sighted Total	41	40	38	45	114	

Source: BISM personnel and payroll records

EXHIBIT 2

Comparison of BISM Sales, Rehabilitation and Training Expenses, and State Support Fiscal Years 1998 to 2015



Source: BISM Accounting Records, Audited Financial Statements, and State Budget Analyses

Exhibit 3
Comparison of BISM and Internet Pricing For 14 Products Sold to State Agencies During Fiscal Year 2015

BISM Product Number	Description	BISM State Sales Activity and Per Case Pricing				Internet Vendor Pricing Per Case (September 2015)			
		State Sales Fiscal Year 2015			List Price as of July 1, 2015	Lowest Market Price	Highest Market Price	Median Market Price	Average Market Price
		Units Sold	Sales	Average Unit Price					
10211-4024	1-Ply Toilet Tissue Standard Roll 80 rolls per case	14,162	\$598,412	\$42.25	\$48.72	\$37.29	\$50.05	\$41.56	\$42.78
10211-4037	2-Ply Toilet Tissue Jumbo Roll 12 rolls per case	21,066	506,936	\$24.06	\$32.33	\$27.29	\$39.95	\$33.13	\$33.07
10211-14000	1-Ply Toilet Tissue Ecosoft 96 rolls per case	9,310	466,493	\$50.11	\$57.48	\$44.75	\$60.06	\$49.87	\$51.33
10201-090416	GOJO Automatic Foam Soap 2 per case	10,433	434,659	\$41.66	\$42.50	\$39.76	\$53.99	\$40.87	\$44.00
10211-SFN	Single Fold Paper Towels 250 per pack / 16 packs per case	18,559	338,395	\$18.23	\$19.23	\$19.00	\$26.95	\$24.95	\$23.69
10211-RT800W	800 Foot White Paper Towel Roll 6 rolls per case	13,727	328,447	\$23.93	\$30.73	\$26.89	\$35.50	\$33.55	\$32.22
10211-4060	2-PLY Toilet Tissue Standard Roll 80 Rolls per case	8,695	324,154	\$37.28	\$41.93	\$41.99	\$55.70	\$50.77	\$50.70
10905-SBNOW	5 Gallon Container of Water	45,888	269,258	\$5.87	\$5.92	\$6.49	\$7.99	\$6.50	\$6.88
10221-EN13XL	Extra Large Nitrile Gloves 100 per box / 10 boxes per case	3,945	253,128	\$64.16	\$65.87	\$41.99	\$114.90	\$59.95	\$72.94
10211-61990	1-PLY Opticor Toilet Tissue 36 rolls per case	6,336	199,267	\$31.45	\$41.07	\$52.86	\$79.99	\$58.58	\$62.31
10215-0410	Solid Dishwashing Detergent 5 pound container/2 per case	4,177	185,125	\$44.32	\$44.32	\$17.81	\$60.00	\$28.12	\$38.68
10401-0001-030U	3 Ounce Unwrapped Bar Soap 144 per case	2,932	185,056	\$63.12	\$79.80	\$37.00	\$61.99	\$59.28	\$51.26
10211-RT800P	800 Ft. Natural Paper Towel Roll 6 roll per case	6,829	184,168	\$26.97	\$37.24	\$37.09	\$66.83	\$65.33	\$58.22
10211-RT800	800 Ft. Natural Recycled Paper Towel 6 rolls per case	8,778	184,151	\$20.98	\$23.59	\$22.89	\$33.95	\$27.10	\$27.24

Sources: BISM Sales records and OLA research

Exhibit 4
Comparison of Chief Executive Officer Compensation for Fiscal Years 2013 *
(listed by Organization Gross Receipts)

Blind Industries Organizations	Gross Receipts	Total Number of Employees	CEO W-2 Earnings	Other Compensation	Total Compensation	Cost of Living Factor (CLF)	Adjusted Total Compensation, Based on CLF	Adjusted Total Compensation as a Percentage of Receipts
LC Industries – Durham, North Carolina	\$230,691,299	920	\$916,105	\$38,185	\$954,290	1.1755	\$1,121,768	0.49%
Winston-Salem Industries for the Blind – North Carolina	105,289,094	829	409,478	82,779	492,257	1.1692	575,547	0.55%
BISM – Baltimore, Maryland	91,026,950	431	481,526	38,745	520,271	1.0000	520,271	0.57%
Industries for the Blind - Milwaukee Wisconsin	88,308,201	278	397,951	31,470	429,421	1.0650	457,333	0.52%
San Antonio Lighthouse for the Blind - Texas	79,170,357	537	326,081	58,695	384,776	1.1949	459,769	0.58%
Seattle Lighthouse for the Blind - Washington	53,743,846	462	206,772	30,896	237,668	0.8260	196,314	0.37%
Envision Industries, Inc. – Wichita, Kansas	39,319,330	310	255,689	15,089	270,778	1.1742	317,948	0.81%
South Texas Lighthouse - Texas	35,904,785	216	188,419	-	188,419	1.1755	221,487	0.62%
Columbia Lighthouse for the Blind – Washington, DC	6,839,762	116	197,586	-	197,586	0.7820	154,512	2.26%

Source: BISM Salary Survey, IRS Forms 990, and ACCRA Cost of Living Index

* - The organizations listed had differing 2013 fiscal year end dates. Specifically, the Form 990s reported fiscal years ending, March 31, 2013, June 30, 2013, September 30, 2013, or December 31, 2013.

APPENDIX



BLIND INDUSTRIES AND SERVICES OF MARYLAND

January 22, 2016

Mr. Thomas J. Barnickel III, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street Room 1202
Baltimore, Maryland 21201

Dear Mr. Barnickel,

Thank you for the opportunity to review and comment on the Performance Audit Report issued by your office entitled "Certain Operational Aspects of The Blind Industries and Services of Maryland."

In challenging economic times, the role of Blind Industries and Services of Maryland (BISM) in generating training and employment opportunities for people who are blind, takes on an even greater importance and requires significant effort. In fiscal year 2015, BISM provided over 71,000 hours of training and over 430,000 hours of employment to blind people. It should also be noted that for more than 40 years, we are proud to say, that no Associate of BISM has earned less than minimum wage, although the law allows this. As the single largest employer of blind people in the State of Maryland, BISM provides tremendous value to the Maryland taxpayer. Additional value is provided to the State by the products that BISM sells to the State. A comparison of BISM's average price to the average internet price on 14 items studied, shows that in fiscal 2015 based on the quantities purchased by the State, the cost of all 14 items would be \$1.0 million less from BISM versus the average prices offered by internet vendors. If the median internet price (can be considered the fair market price) was used instead of the average internet price, then the cost of all 14 items was \$966,000 less from BISM than offered by the vendors.

BISM appreciates the importance of insuring that a program is operating in an economic, efficient, and effective manner and has long been committed to operating pursuant to strict accountability standards. Not only has BISM implemented the standards required for not-for-profit organizations by the Sarbanes-Oxley Act, but has voluntarily implemented as best-practice, aspects of the law required by only for-profit organizations.

BISM has reviewed your Performance Audit Report and supports those recommendations we believe will further clarify expectations, enhance controls and oversight already in place, and improve policies and procedures which will lead to increased training and employment for blind people. The attached comments address the report and provide several clarifications on certain statements which may be misunderstood as currently written. We appreciate the opportunity to share our views in furtherance of BISM's extremely important and critical mission.

BISM thanks the members of the staff of Office of the Legislative Audits who performed our audit for their professionalism in how they conducted the audit.

Sincerely,

A handwritten signature in black ink, reading "Frederick J. Puente". The signature is written in a cursive, flowing style with a large initial 'F' and 'P'.

Frederick J. Puente
President/CEO

**Blind Industries and Services of Maryland
Response to
Legislative Audit Report**

OBJECTIVE 1

Blind Industries and Services of Maryland Strategies to Promote Work, Career, and Training Opportunities, and Services for Blind and Visually-Impaired Persons in Maryland

FINDING 1.1

Until September 2015, BISM had not formally adopted strategies to accomplish organizational goals it established in 2013. Also, BISM has not taken the next step of developing action plans or measures to assess the success of those efforts.

Recommendation 1.1

We recommend that BISM

- a. develop action plans for its strategies initiatives identifying steps to be taken, those individuals responsible for completing the tasks and related timeframes;
- b. develop performance measures to assess whether the actions taken are achieving desired results; and
- c. conduct ongoing monitoring of plans and outcomes.

BISM Response

BISM accepts the recommendation.

FINDING 1.2

BISM conducts outreach programs to inform Maryland residents of available services. The needs of blind individuals requesting services appear to be met.

Recommendation 1.2

No recommendation required.

BISM Response

BISM agrees that we are successfully meeting the goal of servicing the blind community.

FINDING 1.3

BISM has assumed more financial responsibility over its various rehabilitation and training programs offered to blind individuals.

Recommendation 1.3

No recommendation required.

BISM Response

BISM accepts the recommendation.

FINDING 1.4

Many former CORE students completing the program have reported achieving successful post-training outcomes, but BISM has not established a process for tracking student satisfaction with some of its services.

Recommendation 1.4

We recommend that BISM establish a formal process for determining and tracking student/client satisfactions for all its training and rehabilitation services.

BISM Response

BISM will enhance its current evaluation process to meet the recommendation.

OBJECTIVE 2

BISM Pricing Policies and Practices for Supplies and Services Sold to Maryland State Agencies

FINDING 2.1

Pricing committees established by State law had not conducted a comprehensive review of the prices of BISM's supplies and services available to State agencies.

Recommendation 2.1

We recommend that

- a. the Pricing and Selection Committee set the fair market prices of all BISM products and services for sale to the State;
- b. the Committee maintain a current list of those products and services;
- c. DGS make the Committee approved list of BISM supplies and services available to State agencies; and
- d. BISM retain documentation of initial product pricing and maintain complete records of supplies or services submitted for pricing to the Committee.

BISM Response

BISM will certainly work with the Pricing and Selection Committee, of which BISM is not a party. (BISM was removed from the Pricing Committee pursuant to House Bill 349). BISM will provide and maintain all requested product and pricing matters that the Pricing and Selection Committee requests.

FINDING 2.2

Based on our review of selected BISM products, BISM prices, on an overall basis, were competitive with the prices of similar third party competitor products offered for sale to the public.

Recommendation 2.2

No recommendation required.

BISM response

BISM accepts the recommendation.

FINDING 2.3

Differing legal opinions and court ruling raise questions as to whether the products BISM sells to State agencies under the procurement preference must meet a certain threshold of direct blind labor hours as specified in State law.

Recommendation 2.3

We recommend that BISM take necessary action to ensure compliance with State law.

BISM Response

BISM has and will comply with all Federal and State laws and regulations. We are providing the following legal analysis:

Blind Industries and Services of Maryland (“BISM”) is a corporation created by § 7-703 of the Human Services Article of the Annotated Code of Maryland.

However, the “genesis of BISM may be found in legislation enacted in 1908.” 78 Md. Op. Atty. Gen. 128 (1993). Under the current statutory scheme, BISM is controlled by an 11-member Board of Trustees (the “Board”). Hum. Serves. § 7-703. The eleven Board members are “appointed by the Governor with the advice and consent of the Senate.” Id. The Board is granted certain discretionary powers and mandatory duties. Id. § 7-703(h), (i).

The authority of the circuit courts of Maryland is defined by Article IV, § 20 of the Maryland Constitution and § 1–501 of the Courts and Judicial Proceedings Article. The Maryland Constitution provides, in relevant part, that each circuit court has “all the power, authority and jurisdiction, original and appellate, which the Circuit Courts of the counties exercised on [4 November 1980].” Md. Const., Art. IV, § 20. Circuit courts are the “highest common-law and equity courts of record exercising original jurisdiction within the State,” and have “full common-law and equity powers and jurisdiction in all civil and criminal cases within its county, ... except where by law jurisdiction has been limited or conferred exclusively upon another tribunal.” Md.Code, Courts & Judicial Proceedings Article, § 1–501. Kent Island, LLC at 363, 61 A.3d at 29-30 (2013). A circuit court does not possess jurisdiction generally to review, modify, or overrule orders entered by another circuit court, all things being equal. See Md. Const., Art. IV, § 20; Solomon v. Solomon, 118 Md.App. 96, 114, 701 A.2d 1199, 1207 (1997). “The acts of a competent tribunal cannot be reviewed collaterally. They are to be taken as a just and proper exercise of power in all other Courts.” Clark v. Southern Can Co., 116 Md. 85, 93, 81 A. 271, 274 (1911) (quoting Cook's Lessee v. Carroll, 6 Md. 104, 112 (1854)). See also Johnson v. Johnson, 265 Md. 327, 331, 289 A.2d 318, 320 (1972) (“[A] final determination reached by a court having jurisdiction [cannot] be made the subject of collateral attack.”); Dorsey v. Wroten, 35 Md.App. 359, 361, 370 A.2d 577, 579 (1977). Kent Island, LLC, at 364, 61 A.3d at 30.

The Attorney General, on the other hand, is charged with giving his opinion in writing whenever required by the General Assembly or either branch thereof, the

Governor, the Comptroller, the Treasurer or any State's Attorney on any legal matter or subject. Md. Const. Art. V, § 3. An Attorney General Opinion is just that- an opinion. Whereas the Circuit Court issues decisions and court orders. Court orders and decisions are binding on the parties that come before the court, and over which the court has jurisdiction as defined by Maryland law.

Attorney General Opinions are advisory only to Maryland courts. See *Maryland Automobile Insurance Fund v. Lumbermen's Mutual Casualty Company*, 148 Md. App. 690, 701; 814 A.2d 52, 59 (2002). There are instances in which the court will accept interpretations contained in opinions of the Attorney General, it is primarily where it appears that the Legislature has acquiesced to the Attorney General's opinion. *Scott v. Clerk of Circuit Court for Frederick County*, 112 Md. App. 234, 243; 684 A.2d 896, 900 (1996). Courts are not bound by an Attorney General's Opinion, but that "when the meaning of legislative language is not entirely clear, such legal interpretation should be given great consideration in determining the legislative intention." *State v. Crescent Cities Jaycees*, 330 Md. 460, 470, 624 A.2d 955, 960 (1993); see also *Read Drug & Chem. Co. v. Claypoole*, 165 Md. 250, 257, 166 A. 742, 745 (1933). The Legislature is presumed to be aware of the Attorney General's statutory interpretation and, in the absence of enacting any change to the statutory language, to acquiesce in the Attorney General's construction. See *Claypoole*, supra, 165 Md. at 257-58, 166 A. at 742.

There are numerous Attorney General Opinions discussing whether BISM is a State agency, which have resulted in a mixed record – some opining that BISM is a State agency and others that BISM is not a State agency. See 21 Md. Op. Atty Gen. 170 (1936) (opining that BISM's predecessor, The Workshop and School for the Blind, was a State agency "for the administration of a State plan for aid to the blind" under federal law); 40 Md. Atty. Op Gen. 120 (1955) (opining that BISM's predecessor was not a State-owned entity and not exempt from Baltimore City's Building Code); 50 Md. Op. Atty Gen. 188 (1965) (opining that BISM was a State agency for the purpose of receiving financial assistance administered by the State Department of Education); 53 Md. Op. Atty. Gen. 249 (1968) (opining that BISM's predecessor was a "semi-autonomous corporate entity" and not State employees).

There is no definitive answer regarding whether BISM is a State entity; instead the court must consider "whether an entity is a State entity for a particular purpose." 98 Op. Atty. Gen. 114, 128 (2013) (quoting *A.S. Abell Publishing Co. v. Mezzanote*, 297 Md. 26, 35 (1983)). To make this evaluation, one must look to the "characteristics and functions of the entity in the context of the particular statute at issue to determine whether the entity is intended to be viewed, for purposes of that statute, as a State entity." *Id.* (quoting 78 Md. Op. Atty. Gen. 128, 134 (1993)). The Attorney General Opinions have stated that this is an ad hoc decision that could lead to an entity being considered a State agency for one purpose but not for another. *Id.*

78 Md. Op. Atty. Gen. 128 classifies BISM as "quasi-public corporation" that "has conducted itself much as a private entity, operating in accord with its own bylaws, setting compensation for its employees, and obtaining status as a

nonprofit, charitable corporation under § 501(c)(3) of the Internal Revenue Code.” Further, quasi-public corporations “are private in ownership, ‘but which, nevertheless, by reason of the nature and extent of their operations and effect on the welfare of the public at large, have been styled quasi-public corporation.” *Id.* (quoting *Potter v. Bethesda Fire Dep’t*, 309 Md. 347, 357, 524 A.2d 61 (1987)). The Circuit Court case involved here, *Blind Industries and Services of Maryland v. Maryland State Department of Education, Division of Rehabilitation Services*, et al., Circuit Court for Baltimore City, Case No: CL 196189, considered the implications of a specific statute: Art. 30, § 30A, which required products made by the blind, to be made by at least 75% blind individuals. Specifically, the court considered whether pursuant to this statute, BISM was a State agency. *Id.* The court looked at 78 Md. Op. Atty. Gen. 128, which considered this exact issue, and overruled the legal reasoning. *Id.* The court stated that the statute set BISM up as the watchdog for this 75% requirement throughout the State, and therefore was considered a State agency pursuant to this statute. *Id.* As a result of being a State agency, the direct labor requirements would not apply to BISM, but should be used by BISM and the Legislature when investigating other sellers of blind products:

“BISM’s characteristics and functions in the context of Art. 30, §30A are clear. BISM is the entity whose purpose is to aid and provide for Maryland’s blind citizens. Its powers and duties are enumerated by law, and the State scrutinizes its programs and the blind community’s participation in them. Section 30A simply prevents others from sailing under false colors, and appoints BISM as its watchdog. The Court concludes that BISM should be viewed as a State entity for purposes of Art 30, § 30A, and is therefore not subject to the direct labor requirements specified therein.” *Id.*

The court also stated that although this would not impact BISM, as BISM is not governed by the statute, the direct labor requirements should be measured on a product-by-product basis, and only applied to products, not services. *Id.* Since the statutory language is still valid, but has simply been recodified, the court ruling would still control.

The General Assembly argues that the Circuit Court case is not binding on BISM because its new headquarters is located in Baltimore County, and if a similar motion was brought, the Baltimore County Circuit Court would have jurisdiction. Finding 2.3. The General Assembly findings goes on to state that the Circuit Court ruling would not take precedence over the Attorney General Opinion in a new hearing because neither is binding on the new court. *Id.* It is true, as the General Assembly admits, that the Attorney General Opinion would not be binding on the Court, as detailed above. However, this argument related to Circuit Court jurisdiction is akin to saying that if a defendant is found guilty of murder in one county in Maryland, they could move to another county and live freely until the new county enters its own guilty verdict. In addition, this argument fails to consider the legal principals of *res judicata* and *collateral estoppel*.

The doctrines of “res judicata” and “collateral estoppel,” “which are also known by their more descriptive names: claim preclusion and issues preclusion” act as a bar to relitigation of a claim or issue previously litigated. *Mostofi v. Midland Funding, LLC*, 223 Md. App. 687, 696, 117 A.3d 639, 644 (2015). Claim preclusion means that a party can no longer bring a claim because “a judgment between the same parties and their privies is a final bar to any other suit upon the same cause of action, and is conclusive, not only as to all matters that have been decided in the original suit, but as to all matters which with propriety could have been litigated in the first suit.” *Lizzi v. Wash. Metro. Transit Authority*, 384 Md. 199, 207, 862 A.2d 1017, 1022 (2004) (quoting *Alvey v. Alvey*, 225 Md. 386, 390, 171 A.2d 92 (1961)) (emphasis added). Issue preclusion means that if a previous case took place between the same parties or their privies, and the fact-finder made a finding that was “essential to” the judgment entered, all future cases between those parties are stuck with that finding and cannot re-litigate the question. *Welsh v. Gerber Products, Inc.*, 315 Md. 510, 516, 555 A.2d 486 (1989). “In sum, claim preclusion bars litigation of claims, whereas issue preclusion generally bars re-litigation of facts.” *Mostofi*, 223 Md. App. at 696, 117 A.3d at 644 (emphasis in original).

“Claim preclusion refers to the effect of a judgment in foreclosing litigation of a matter that has never been litigated, because of a determination that it should have been advanced in an earlier suit. Claim preclusion therefore encompasses the law of merger and bar.” *Kent County Bd. of Educ. v. Bilbrough*, 309 Md. 487, 489-90, 525 A.2d 232, 233 (1987) (quoting *Migra v. Warren City School Bd. of Educ.*, 465 U.S. 75, 77 n.1, 104 S. Ct. 892, 894 n.1 (1984)). Issue preclusion “refers to the effect of a judgment in foreclosing relitigation of a matter that has been litigated and decided.” *Id.* These two doctrines serve the same judicial policy: “that the losing litigant deserves no rematch after a defeat fairly suffered, in adversarial proceedings, on issues raised, or that should have been raised.” *Colandrea v. Wilde Lake Community Ass’n, Inc.*, 361 Md. 371, 761 A.2d 899 (2000). Neither claim preclusion, nor issue preclusion require that the prior trials be in the same court, nor that they were decided by the Court of Appeals. Instead, any court decision involving the same parties and/or issues are controlled by the initial decision, unless the aggrieved party appeals it to a higher court, which overturns the decision. The General Assembly admits that the Maryland State Department of Education’s Division of Rehabilitation Services (DORS) did not appeal the Circuit Court’s decision, nor did the agency challenge the jurisdiction of the Court. Therefore, all parties are still bound by that decision.

Jurisdiction embraces two distinct concepts: “(i) the power of a court to render a valid decree, and (ii) the propriety of granting the relief sought.” *Maryland Bd. of Nursing v. Nechay*, 347 Md. 396, 406, 701 A.2d 405, 410 (1997) (quoting *Moore v. McAllister*, 216 Md. 497, 507, 141 A.2d 176, 182 (1958)). Whether a court has fundamental jurisdiction, or the “power, or authority, ... to render a valid final judgment,” is determined by the applicable constitutional and statutory provisions. *Kent Island, LLC v. DiNapoli*, 430 Md. 348, 362-63, 61 A.3d 21, 29 (2013). (Quoting *Kaouris v. Kaouris*, 324 Md. 687, 708, 598 A.2d 1193, 1203 (1991)).

The Circuit Court decision amounts to a court order issued by the Circuit Court for Baltimore City. BISM obviously must follow all court orders to which they were a party throughout the State. Finally, BISM continues to operate and do business in Baltimore City. Therefore, it is still under the purview of the Circuit Court for Baltimore City.

Auditor's Comment: OLA's recommendation that BISM take the necessary action to ensure compliance with State law was based on advice provided by legal counsel to the Maryland General Assembly regarding the applicability of certain laws to BISM. In its response, BISM stated that it has and will comply with all federal and State laws and regulations and provided a large body of court cases and law references to support its position. OLA shared this response with its legal counsel, who reaffirmed the advice provided to OLA, which forms the basis for the audit finding and related recommendation. Consequently, unless the applicability of certain laws to BISM is pursued in the court system or legislation is passed to clarify the matter, no further action is likely to resolve the legal disagreement and change BISM's practices.

OBJECTIVE 3

EXECUTIVE COMPENSATION AND ETHICS REQUIREMENTS FOR MANAGEMENT AND BOARD MEMBERS

FINDING 3.1

The annual evaluation of the Chief Executive Officer, an important aspect of setting the CEO's compensation, was not directly linked to specific measurable BISM goals. Also the CEO's Performance Bonus Program was not defined and documented.

Recommendation 3.1

We recommend that BISM

- a. enhance the CEO annual evaluation process by incorporating attributes pertaining to achieving specify measurable goals;
- b. develop a written performance bonus plan, approved by the Board, that includes a description of the purpose and methodology for determining the CEO's bonus;
- c. retain documentation supporting compensation determinations (such as Board prepared evaluations, bonus awards) for the period of the applicable employment contract; and
- d. ensure that employment contracts are properly executed.

BISM Response

BISM accepts the recommendation.

FINDING 3.2

BISM has not established a formal compensation review policy for its non-CEO executive-level positions.

Recommendation 3.2

We recommend that BISM

- a. develop a formal compensation review policy for its non-CEO executive staff, which is approved by the Board, to ensure that the performance evaluation process is tailored for those positions and incorporates attributes pertaining to achieving measurable goals and objectives; and
- b. ensure that compensation for the non-CEO executive staff is reasonable based on market survey and analysis.

BISM Response

BISM accepts the recommendation.

FINDING 3.3

A comprehensive code of ethics policy and appropriate financial disclosure requirements were established. Policy compliance was properly monitored.

Recommendation 3.3

No Recommendation required.

BISM Response

BISM accepts the recommendation.

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor



C. Gail Bassette
Secretary

MARYLAND DEPARTMENT OF GENERAL SERVICES
OFFICE OF THE SECRETARY

January 29, 2016

Mr. Thomas J. Barnickel III, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street
Baltimore, Maryland 21201

Reference: Report Comment – Pricing & Selection Committee

Dear Mr. Barnickel:

Attached please find the Department of General Services response to your report comments related to the Pricing and Selection Committee for Blind Industries and Services of Maryland and the Employment Works Program. This response was drafted in consultation and cooperation with the Maryland Department of Transportation.

Please feel free to call me at 410-767-4938 if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "C. Gail Bassette".

C. Gail Bassette
Secretary



Larry Hogan
Governor



Boyd K. Rutherford
Lt. Governor

**Pricing and Selection Committee
for Blind Industries and Services of Maryland
and the Employment Works Program**

January 28, 2016

Mr. Thomas J. Barnickel III, CPA
Legislative Auditor
Office of legislative Audits 301 West Preston Street
Baltimore, Maryland 21201

RE: Report comment - Pricing & Selection Committee BISM & Employments Works Program

Dear Mr. Barnickel,

Attached, please find the two documents previously transmitted electronically in response to the request made by Mr. Bob Lembach on January 21, 2016. The first document is the combined responses of both DGS and the Blind Industries and Services of Maryland and Employment Works program Pricing and Selection Committee. Also attached, please find a brief summary that I have prepared that discusses the history and perhaps some additional useful information about the Pricing and Selection Committees. ①

Please feel free to reach out to me if you care to discuss any of this or if you have any questions. I can be reached at mhaifley@mdot.state.md.us or at 410-865-1132.

Sincerely,


Michael Haifley
Chair

① This summary was not included in the Appendix.

Responses From Department of General Services and Pricing and Selection Committee for BISM and Employment Works Program

Recommendation 2.1

We recommend that

- a. the Pricing and Selection Committee set the fair market prices of all BISM products and services for sale to the State;**

We concur that it is the responsibility of the Pricing and Selection Committee (PSC) to set the fair market prices for supplies and services provided by BISM as required by the statute. The appropriate Pricing & Selection Committee, prior to the listing of an item on the catalog, reviewed and approved the fair market price for that supply or service. There is no requirement that the entire catalog be reviewed every year to set the fair market prices. Typically, specific supplies or services are reviewed when BISM proposes changes to supplies or services, or asks for a price change.

Auditor's Comment: The assertion that pricing committees have been routinely reviewing and approving the fair market prices of all BISM supplies or services prior to listing items on the BISM catalog could not be substantiated during this audit, as well as during a previous fiscal compliance audit of the Department of General Services (DGS) - Office of Procurement and Logistics. Further, we did not recommend an annual review of all products' pricing, and acknowledge that there is no requirement of an annual review of each product's price.

- b. the Committee maintain a current list of those products and services, including making timely revisions to the list as necessary, and send the list to DGS;**

We concur that it is the responsibility of the Pricing and Selection Committee to maintain, and revise as necessary, a list of supplies and services provided by BISM and to provide that list to DGS as required by the statute. We have such a list and have provided to DGS one update to the list resulting from the fair market price approvals made at the BISM and Employment Works Program (EWP) PSC meeting in November 2015.

The committee has no staff support for BISM market research or cost analysis, nor does it have staff support of any kind as it relates to BISM. The Coordinating entity for the EWP is required by the statute to provide such support for its items considered by the PSC. But as noted in the audit report, prior State law (the now repealed SFP §14-104(e)) required the assistance of BISM staff to support the operations of the committee. Accordingly, the work of BISM staff in creating and maintaining this list (also as acknowledged in the audit report) was viewed by the Committee as sufficient to meet the obligation for an up to date and accurately revised list.

A change to the statute should be considered to require BISM to provide similar staff support for the BISM fair market price determinations, or alternatively, assign a staff member to the PSC to be used for these purposes as determined by the PSC.

Auditor's Comment: While current State law does not make a specific provision for Committee support staff, the law does not preclude the use of staff resources available to current Committee members consisting of the secretaries or assistant secretaries of five State departments. We do not believe it is unrealistic for those members to provide staffing from their departments to assist the Committee in fulfilling its responsibilities.

c. DGS make the Committee approved list of BISM supplies and services available to State agencies; and

DGS has ensured that this information is available to agencies through a variety of ways.

Information regarding the offerings of all the preferred providers is posted on the DGS website at <http://dgs.maryland.gov/Documents/PerferredProviderProgram.pdf>

There is a direct link to this document from the DGS Procurement webpage titled "Preferred Provider Information" under the heading "Contracts and Bidding" at <http://www.dgs.maryland.gov/Pages/Procurement/index.aspx>

Further, the specific BPOs from the State for conducting business with BISM are posted on the "Open Bids and Contract Awards" at (select category "State Preferred Provider.") <http://www.dgs.maryland.gov/Pages/Procurement/BidsAwards.aspx>

Additionally, BISM maintains on their website under the "State" category a list of all products and their pricing as approved by the PS&C <http://www.bism.org/store-home-page>

Auditor's Comment: The first three Internet links provided in the response are to DGS web pages and are intended to guide the user to the Statewide Blanket Purchase Order (BPO) for the BISM Master List of supplies and services. After using the third link to find a supply or service offered by BISM, the subsequent link to the BPO for BISM supplies and services is currently a dead link with no information available. Also, during the audit, we obtained a copy of the related BPO and we found that it contained no pricing information but referred the State agency to the products and prices on BISM's website.

The fourth link leads to a spreadsheet on BISM's website of the supplies and services for sale to State agencies with corresponding prices. However, since this is BISM's website and document, sufficient assurance that these prices have been approved by the Committee is lacking. OLA continues to believe that DGS should maintain an official BISM product and price list for use by State agencies, unless a mechanism is established to periodically verify BISM website prices.

- d. BISM retain documentation of initial product pricing and maintain complete records of supplies or services submitted for pricing to the Committee.

The substance of this comment is best addressed by BISM.

AUDIT TEAM

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