

Audit Report

**Maryland Department of Transportation
Maryland Port Administration**

March 2022



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

Joint Audit and Evaluation Committee

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Victoria L. Gruber
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Gregory A. Hook, CPA
Legislative Auditor

March 24, 2022

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Maryland Department of Transportation (MDOT) – Maryland Port Administration (MPA) for the period beginning February 21, 2017 and ending May 31, 2021. MPA operates State-owned port facilities and promotes the economic well-being of Maryland's ports. Specifically, MPA is responsible for managing the State's investment in port facilities, developing trade by promoting maritime business, and coordinating the delivery of services, such as dredging and navigational aids, to the maritime community.

Our audit disclosed that MPA's review of invoices to ensure the accuracy of amounts billed for construction and maintenance services provided by the Maryland Environmental Services (MES) was not adequately documented. Specifically, while MPA advised us that it performed a review of MES invoices to ensure MES labor charges (including fringe benefits and overhead) were proper, this review was not documented. In addition, after January 2020, a review of subcontractor charges included on MES invoices for propriety was not performed. According to the MPA records, it paid MES \$218 million during the period February 28, 2017 through February 2, 2021.

Our audit included a review to determine the status of the finding contained in our preceding audit report. We also determined the status of the two findings contained in a special report on an allegation received through our fraud, waste, and abuse hotline. We call your attention to our determination that MPA satisfactorily addressed the three aforementioned findings.

MDOT's response to this audit, on behalf of MPA, is included as an appendix to this report. We reviewed the response to our finding and related recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues.

We wish to acknowledge the cooperation extended to us during the audit by MPA. We also wish to acknowledge MDOT's and MPA's willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive, flowing style.

Gregory A. Hook, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Maryland Port Administration (MPA), a transportation business unit of the Maryland Department of Transportation, operates State-owned port facilities and promotes the economic well-being of Maryland's ports. MPA is responsible for managing the State's investment in port facilities; developing trade by promoting maritime business; and coordinating the delivery of services, such as dredging and navigational aids, to the maritime community. MPA also owns and operates a number of facilities including Baltimore's World Trade Center building.

According to the State's records, during fiscal year 2020, MPA's operating and capital expenditures totaled approximately \$146 million. According to MPA's records, approximately 13.4 million tons of cargo were shipped through its port facilities during fiscal year 2020, and overall port revenues totaled approximately \$54.7 million, the majority of which related to terminal activity, including fees for the use of MPA's piers, wharfs, and equipment.

Status of Findings From Preceding Audit Reports

Our audit included a review to determine the status of the one finding contained in our preceding audit report dated January 4, 2018. Additionally, we determined the status of the two findings contained in our June 26, 2019 special report on an allegation received through our fraud, waste, and abuse hotline pertaining to an employee directing the use of specific vendors as subcontractors and questionable Corporate Purchasing Card (CPC) activity. We determined that MPA satisfactorily addressed the three findings contained in the two reports.

Findings and Recommendations

Disbursements

Finding 1

Maryland Port Administration's (MPA) review of invoices for construction and maintenance services provided by the Maryland Environmental Services (MES) was not documented to ensure the accuracy of amounts billed.

Analysis

MPA's review of invoices for construction and maintenance services provided by Maryland Environmental Services (MES)¹ was not documented to ensure the accuracy of amounts billed. MPA enters into contracts with MES primarily for construction and maintenance services for projects related to dredging of the Chesapeake Bay. According to MPA records, MES provided services for 19 active projects during fiscal year 2021, and most projects spanned multiple years. For example, MPA entered into various contracts totaling approximately \$196 million for one project during the period April 2015 through June 2025 to provide containment services for dredged material.

MPA works with MES to develop proposals for various projects and MES solicits and evaluates bids for vendors to complete the projects. MPA reviews vendor bids and approves the MES procurements and the budgets for each project. MES submits project status reports, and monthly invoices which are primarily for labor, fringe benefits, overhead, and subcontractor billings to MPA for payment. According to the MPA records, it paid MES \$218 million during the period February 28, 2017 through February 2, 2021.

- MPA did not perform a documented review of MES invoices to ensure labor charges (including fringe benefits and overhead) were proper. Although MPA obtained sufficient documentation from MES to support the invoices, and advised that it reviewed and verified the invoices before approving them for payment, this critical review process was not documented. Consequently, there was a lack of assurance that billed labor hours agreed to MES time records, hourly rates were in accordance with the agreement, and fringe benefits and overhead charges were accurate. We reviewed the documentation MPA had to support its payment of six invoices totaling approximately \$4.3 million for three projects, made during the period June

¹ MES was created as an instrumentality of the State and a public corporation, and as such MPA is exempt from procurement regulations for contracts entered into with MES.

2018 through July 2020. Our review did not disclose any unsupported or improper invoiced amounts.

- Subsequent to January 2020, MPA did not obtain copies of MES subcontractors' invoices to ensure that those billed charges (for example labor rates and construction costs) were proper². We tested subcontractor charges totaling \$5.3 million for the period January 2020 through May 2020 that were included on eight invoices for one project. As a result of our request, MES obtained copies of these subcontractor invoices and our review disclosed that all charges were supported by subcontractor invoices.

The Comptroller of Maryland's *Accounting Procedures Manual* requires the establishment of sufficient internal controls over disbursements including the verification of invoice documentation to procurement documents to ensure the propriety of the billings.

Recommendation 1

We recommend that MPA perform a documented review of MES and related subcontractor invoices, at least on a test basis, to ensure the accuracy of labor, fringe benefits, overhead, and subcontractor charges.

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Maryland Department of Transportation – Maryland Port Administration (MPA) for the period beginning February 21, 2017 and ending May 31, 2021. The audit was conducted 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.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine MPA's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

² Prior to January 2020, MPA obtained copies of subcontractor billings, on a test basis, for MES invoices to support amounts billed. MPA advised us that it discontinued this procedure due to staffing issues and difficulties transitioning to a remote work environment due to the COVID-19 health pandemic.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included cash receipts, procurements and disbursements, accounts receivable, and certain other transactions specifically associated with port activities, such as lease agreements for the use of port facilities. We also determined the status of the findings contained in our preceding audit reports.

Our audit did not include certain payroll support services (such as processing of personnel transactions and maintenance of employee leave records) provided by MDOT – The Secretary’s Office to MPA. These support services are included within the scope of our audit of MDOT. Our audit also did not include an evaluation of internal controls over compliance with federal laws and regulations for federal financial assistance programs and an assessment of MPA’s compliance with those laws and regulations because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including MPA.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of February 21, 2017 to May 31, 2021, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of MPA operations. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk, the timing or dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do not normally use sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State’s Financial Management Information System and the Maryland Department of Transportation’s Financial Management Information System (such as revenue and expenditure data) and the State’s Central Payroll Bureau (payroll data), as well as from the contractor administering the State’s Corporate Purchasing Card Program (credit card activity). The extracts are performed as part of ongoing internal

processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these various sources were sufficiently reliable for the purposes the data were used during this audit.

We also extracted data from MPA's billing and reporting system for the purpose of testing billings and accounts receivable. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

MPA's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to MPA, were considered by us during the course of this audit.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes a finding relating to a condition that we consider to be a significant deficiency in the design or operation of internal control that could adversely affect MPA's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our audit did not disclose any significant instances of noncompliance with laws, rules, or regulations. Other less significant findings were communicated to MPA that did not warrant inclusion in this report.

The response from MDOT, on behalf of MPA, to our finding and recommendations is included as an appendix to this report. As prescribed in State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise MDOT regarding the results of our review of its response.

Office of the Secretary

March 17, 2022

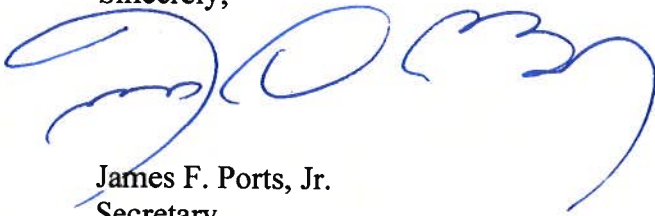
Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
The Warehouse at Camden Yards
351 West Camden Street, Suite 400
Baltimore MD 21201

Dear Mr. Hook: *6-26*

Enclosed please find responses to the audit report from the Office of Legislative Audits for the Maryland Department of Transportation (MDOT) Maryland Port Administration (MDOT MPA) for the period beginning February 21, 2017 and ending May 31, 2021.

If you have any additional questions or concerns, please contact Ms. Jaclyn D. Hartman, MDOT Chief Financial Officer, at 410-865-1035 or jhartman1@mdot.maryland.gov. Ms. Hartman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



James F. Ports, Jr.
Secretary

Attachment

cc: Mr. John G. Arnold, Chief Auditor, MDOT MPA
Mr. Mark Crampton, Assistant Secretary of Operations, MDOT
Mr. William P. Doyle, Executive Director, MDOT MPA
Ms. Jaclyn D. Hartman, Chief Financial Officer, Office of Finance, MDOT
Ms. Tecla Kellum, Director of Audits, MDOT Maryland Transit Administration
Mr. R. Earl Lewis, Jr., Deputy Secretary of Policy, Planning, and Enterprise Services, MDOT
Mr. Brian W. Miller, Deputy Executive Director, Operations and Logistics, MDOT MPA
Mr. Sean Powell, Deputy Secretary of Operations and Homeland Security, MDOT
Ms. Wonza F. Spann-Nicholas, Director of Finance and Chief Financial Officer, MDOT MPA

**Maryland Department of Transportation
Maryland Port Administration**

Agency Response Form

Disbursements

Finding 1

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We recommend that MPA perform a documented review of MES and related subcontractor invoices, at least on a test basis, to ensure the accuracy of labor, fringe benefits, overhead, and subcontractor charges.

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	None.		
Recommendation 1	Agree	Estimated Completion Date:	11/1/2021
Please provide details of corrective action or explain disagreement.	<p>MPA has a long-standing, comprehensive and successful process for reviewing and approving invoices submitted by the Maryland Environmental Service (MES), which is now clearly documented, and for auditing MES' sub-contractor invoices monthly, on a test basis.</p> <p>However, the process for auditing MES' sub-contractor invoices was temporarily paused due to staffing issues and difficulties transitioning to a remote work environment due to the COVID-19 health pandemic.</p> <p>MPA reinstated and enhanced the sub-contractor audit process to ensure all MES invoice labor charges (including fringe benefits and overhead) and similar information related to subcontractor charges are proper and properly documented for audit verification.</p>		

AUDIT TEAM

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