



Department of Legislative Services
Office of Legislative Audits

**Maryland State
Department of Education**

Report dated August 27, 2009



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Audit Overview

- MSDE responsibilities include:
 - Setting statewide goals for school performance
 - Monitoring school achievement
 - Distributing financial aid
 - Providing technical assistance to local schools and library systems
 - Providing services to people with disabilities
 - Overseeing child care programs and family support centers
 - Annual expenditures have grown from \$4.7 billion in FY 2005 to \$6.35 billion in FY 2008, with over 95% representing grant payments.
 - August 27, 2009 audit report included 16 findings, 6 of which were repeated from the preceding audit report.
 - MSDE disagreed with a number of findings and/or recommendations; OLA appended auditor comments to 10 MSDE report responses.
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Key Audit Issues

- Certain aspects of MSDE's "Loaned Educator Program" appear to be in conflict with State laws and regulations and the extent and cost were not fully disclosed in the budget.
- Inspections of child care facilities were not conducted as required and the propriety of certain provider billing information was not verified.
- A \$13.3 million dollar unsubstantiated federal fund revenue accrual was recorded at the 2008 FYE to eliminate a deficit.
- Certain aspects of the MD Business Enterprise Program for the Blind did not appear to operate in accordance with State laws and regulations for the benefit of blind individuals.



Loaned Educator Program

Background:

- For 30 years, MSDE has been authorized under State law and regulations to contract with local school systems to borrow educators to perform specific jobs at MSDE.
- Under annual contracts entered into between MSDE and the school systems, MSDE reimburses the systems for the educators' salaries and certain fringe benefits.
- During FY 2009, 66 educators from 17 local school systems were loaned to MSDE at a cost of \$8.5 million. For the period of FY 2006 to 2008 MSDE paid \$26.5 million, and employed an average of 76 loaned educators per year.
- MSDE's FY 2009 cost per loaned educator ranged from \$82,000 to \$197,000 a year.



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Loaned Educator Program (cont'd)

As implemented, certain aspects of the Program appear to conflict with State law and regulations. (Finding 1)

- During FY 2009, MSDE employed 66 loaned educators, each filling positions in one of six different categories, including 15 educators who served as professional assistants, in executive management (3) and director positions (12).
 - Many educators have worked at MSDE for long periods – ranging up to 15 years. Individuals in executive management participated in the Program for 5 to 8 years (an average of 6 ½ years) and those functioning as division directors participated from 1 to 14 years (an average of 4½ years).
 - At our request, MSDE obtained an AG's opinion that concluded that the services of educators can be obtained on a temporary basis. If performing a job for more than a brief period of time, the educator should become a State employee in the State Personnel Management System.
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Loaned Educator Program (cont'd)

- The Program raises concerns over potential conflicts of interest and the necessity of filing State financial disclosure statements. (Finding 2)
 - A number of educators fill positions involved in programmatic and fiscal decisions that have statewide impact, including their own school system.
 - Three of the educators, in their capacity as MSDE officials, signed certain documents relating to their own contracts, while certain documents relating to 31 contracts were signed by a loaned educator while representing MSDE.
 - Educator contracts did not require the individuals to submit annual financial disclosure statements. If the 66 FY 2009 educators were State employees, they would be required to file statements; however, only 4 had filed.



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Loaned Educator Program (cont'd)

- The extent and full cost of the program was not disclosed to the budget committees. (Finding 3)
 - In the FY 2009 budget submission, 14 “loaned educator” contracts totaling \$1.2 million were noted, while 52 others were simply listed as “education contracts.”
 - Full disclosure of costs should be made because the loaned educators were sometimes paid salaries significantly higher than State employees in similar positions.



Child Care Programs

Since 7/2005, MSDE has been responsible for child care programs, including licensing, compliance monitoring, and enforcement for 8,967 family child care homes and 2,751 child care centers.

MSDE also oversees the Child Care Subsidy Program (CCSP) that paid \$99 million in assistance during FY 2008 to families to help them meet child care needs.

- Health and safety inspections of child care facilities were not always performed as required. (Finding 4) Our test of MSDE records for 100 facilities during a 38-month period, found that 76 facilities were either missing a required inspection and/or inspections were conducted untimely.
- Procedures were not adequate to ensure the propriety of CCSP payments. (Finding 5)
- Access was not sufficiently restricted to the automated system used to process licenses and CCSP payments to child care providers. (Finding 6)



Federal Fund Deficit

- MSDE recorded \$13.3 million in unsubstantiated Federal fund revenue at the 2008 FYE for expenditures incurred under the Temporary Assistance to Needy Families (TANF) grant. (Finding 7)
- This is a longstanding issue in that the unreimbursed expenditures relate to FY 2002 and 2003. No authorized funding remains.



MD Business Enterprise Program for the Blind

- Certain aspects of the Program did not appear to be operated to ensure that blind individuals benefited as intended by State law. (Finding 9)

The Program's objective is to prepare blind individuals to operate successful vending & food service operations in public facilities.

MSDE delegated the operation of vending machines to Blind Industries and Services of MD (BISM).

BISM reported vending machine commissions of \$405,000 on sales of \$1.7 million during the FYE 9/30/08.



MD Business Enterprise Program for the Blind

- MSDE and BISM have been operating without a current contract since May 2002.
- During FY 2008 BISM subcontracted the vending machine operations to several for-profit companies that were not required to employ the blind. The expired contract generally prohibited such subcontracting.
- MSDE originally contracted with BISM because State law generally requires agencies to use BISM, if BISM provides the service at fair market prices; however, in 2002, the Court of Appeals ruled that the law does not apply when BISM does not actually provide the service.



Conclusion

MSDE needs to ensure that :

- the Loaned Educator Program is functioning in accordance with State law and regulations and appropriate budget disclosure is made.
- child care inspections are performed timely as required, that billings are properly verified and that access to critical data files is restricted.
- revenues are properly supported and the federal fund deficit is addressed.
- the MD Business Enterprise Program operates in accordance with State laws and regulations for the benefit of blind individuals.