



**Department of Legislative Services
Office of Legislative Audits**

**Department of Information Technology
(DoIT)**

**Telecommunication Resource Sharing
Agreements**

Report Dated August 3, 2018



Department of Legislative Services Office of Legislative Audits

Audit Background

Our audit included five objectives designed to assess the State's execution, control, and monitoring of telecommunication resource sharing agreements (RSAs) entered into by State agencies under the Department of Information Technology's (DoIT) authority.

- RSAs are contractual agreements with private companies for the non-exclusive, long-term use of State rights-of-way (land), communications infrastructure (telecommunication towers), and real estate (buildings).
 - State law establishes that DoIT is responsible for reviewing, valuing, and approving RSAs entered into by State agencies under its authority.
 - State law requires that monetary compensation from certain State agencies' RSAs is to be deposited into the State's Major Information Technology Development Project (MITDP) Fund. DoIT is responsible for the MITDP Fund.
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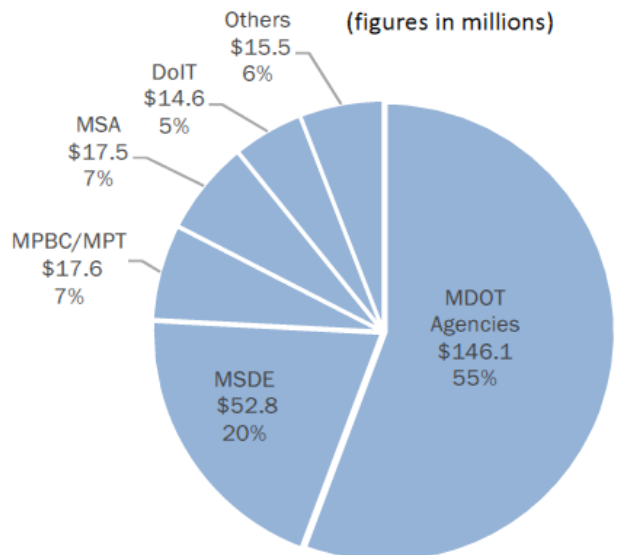
Audit Overview

RSAs typically involve a private company:

- leasing space to install equipment on a State telecommunication tower
- installing fiber optic cable across State property
- leasing State-owned land or a building to install a tower or other wireless communication equipment
- leasing space from a utility company on an electric transmission tower located on State land

We identified 141 RSAs with an estimated value of \$264.1 million at 11 State agencies.

State Agency	Number of Agreements	Estimated Lifetime Value
MDOT-SHA	34	\$97,755,128
MDOT-MTA	19	36,317,048
MDOT-MdTA	15	11,696,056
MDOT-MAA	1	392,000
MSDE	2	52,760,000
MPBC/MPT	21	17,605,674
MSA	21	17,488,920
DoIT	6	14,587,469
DNR	14	8,481,715
DSP	6	5,061,634
BCCC	2	1,931,340
Total	141	\$264,076,984





Key Findings

- DoIT had not established comprehensive policies to guide State agencies on the proper execution, control, and monitoring of RSAs.
 - DoIT and most State agencies did not maintain comprehensive records of RSAs and inventories of State-owned telecommunication towers and fiber optic cables, and there was also a lack of inventories of privately owned equipment on towers.
 - State agencies did not treat certain agreements as RSAs, resulting in a lost opportunity to maximize compensation. Additionally, RSAs were not always monitored to ensure compensation was received and deposited in the MITDP Fund as required.
 - DoIT did not have a strategic plan for marketing RSA opportunities to generate revenues and to help achieve Statewide telecommunication infrastructure goals (such as expanding rural broadband).
 - State agencies did not always obtain the required approvals when executing or renewing RSAs and include key provisions to address significant risks.
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Policies and Procedures (Finding 1)

DoIT had not established comprehensive policies to guide State agencies on the proper execution, control, and monitoring of RSAs. DoIT's limited guidance on RSAs did not include the following key elements:

- A description of the types of agreements covered under the State's resource sharing law.
- A description of the methodology for determining the value of RSAs and for establishing appropriate annual compensation escalation clauses to maximize the State's revenue.
- Standards for RSA duration and renewal options.
- Instructions and expectations for ensuring monetary compensation is received and deposited in appropriate accounts.
- A delineation of DoIT and State agency respective responsibilities for monitoring compliance with the RSAs.



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Policies and Procedures (Finding 1)

DoIT's lack of comprehensive policies and procedures contributed to the numerous deficiencies with RSAs at State agencies.

Agency	Findings 2 & 3	Finding 4	Findings 5 & 6	Findings 9, 10 & 11	Finding 12
	Lack of RSA Records and/or Tower/Fiber Inventories	Agreements not Treated as RSAs	Compensation not received, not verified, or not deposited into MITDP Fund	New RSAs and Renewals not properly approved or executed, and missing key provisions	Lack of inventories of privately owned equipment on towers
DoIT	X		X	X	
BCCC			X	X	
DNR	X	X	X	X	X
DSP	X			X	X
MIEMSS	X				X
MPBC				X	
MSA	X		X	X	
MSDE			X	X	
MDOT-MTA	X	X		X	
MDOT-MdTA	X	X	X	X	
MDOT-SHA	X	X	X	X	X
MDOT-MAA				X	
Totals	8	4	7	11	4



Policies and Procedures (Findings 2 & 3)

DoIT and most State agencies did not have comprehensive records of RSAs and/or inventories of State-owned telecommunication towers and fiber optic cables.

- DoIT and five agencies, did not have complete records of RSAs to assist in the monitoring of compensation and renewal terms. For example, DoIT's master list of RSAs included only 39 of the 141 RSAs. DoIT did not have a mechanism for agencies to periodically report the status of RSAs (Finding 2).
 - DoIT's inventory of State-owned telecommunication towers was not accurate or complete. For example, the inventory only accounted for 131 of the 170 towers we identified. DoIT also did not coordinate with the Maryland Department of Transportation (MDOT), which maintained independent records, to ensure the State maintained an accurate and comprehensive database of State-owned fiber optic cable (Finding 3).
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Compensation (Findings 4-6)

- State agencies did not treat agreements with private telecommunication companies as RSAs, resulting in lost opportunity to maximize compensation. For example, MDOT-State Highway Administration (SHA) allowed companies to install cable and equipment on rights-of-way by issuing no-cost utility permits instead of RSAs (Finding 4).
 - Compensation was not received, was not verified, or was not deposited into MITDP Fund. For example, SHA, DoIT, and the Maryland Transportation Authority (MdTA) did not collect monetary compensation totaling \$6.0 million on four existing RSAs (Finding 5).
 - DoIT did not monitor State agencies to ensure resource sharing monetary compensation was deposited into the MITDP Fund, as required by State law. Our review disclosed that five agencies improperly retained compensation totaling \$7.3 million (Finding 6).
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Marketing (Findings 7 and 8)

- DoIT did not have a strategic plan for marketing RSA opportunities to generate revenues and to help achieve statewide telecommunication infrastructure goals. Consequently, the State may not be maximizing opportunities to obtain revenue and to address the wireless and broadband telecommunication infrastructure needs of the State government and Maryland citizens in rural areas that lack access to broadband (Finding 7).
- DoIT did not monitor existing RSAs with a nonprofit organization to ensure it was expanding its broadband networks in rural and underserved areas, as required. In addition, DoIT had not made any attempts since 2013 to negotiate additional RSAs to further expand the broadband in other rural areas (Finding 8).



RSA Execution & Approval (Findings 9 - 11)

- RSAs did not always contain key provisions to address significant risks. For example, 15 of the 25 RSAs reviewed did not contain all appropriate compensation and fee provisions, including language addressing the State's right of audit (Finding 9).
- State agencies did not always obtain the required DoIT, Legislative Policy Committee, and Board of Public Works (BPW) approvals when executing RSAs as required by law (Finding 10).
- State agencies did not always obtain the required BPW approvals when renewing RSAs. In addition, several agencies had not renegotiated expired agreements, including one that was expired for 9 years. These agencies allowed the expired RSAs to continue at the same rates (Finding 11).



Tracking & Monitoring Equipment (Finding 12)

- State agencies did not always maintain inventories of private telecommunication equipment on its telecommunication towers. All attached equipment should be inventoried to help ensure that only appropriate communications equipment is deployed on State towers, which are constructed at significant State expense.



Conclusions

DoIT and applicable State agencies, as appropriate, should

- establish comprehensive policies to guide State agencies in the proper execution, control, and monitoring of RSAs;
 - maintain comprehensive records of all RSAs and assets (towers/fiber) for RSA opportunities;
 - establish RSAs that contain appropriate provisions for all qualified agreements;
 - ensure the proper amount of RSA compensation is received and deposited into the MITDP Fund as applicable;
 - strategically market RSA opportunities and use RSAs to strategically expand broadband in rural areas;
 - ensure RSAs are properly approved and renewed; and
 - maintain inventories of all private equipment attached to State-owned towers.
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