Department of Legislative Services
Office of Legislative Audits

Department of Health and Mental Hygiene

Office of the Secretary and Other Units

Report Dated February 19, 2015

Audit Overview

The Department (DHMH) is responsible for promoting the health of the public and for strengthening partnerships between State and local governments, the business community, and MD health care providers. The following units, which provide administrative infrastructure and oversight to DHMH and other health providers, were included in this audit:

- Office of the Secretary
- Deputy Secretary of Operations
- Deputy Secretary for Public Health Services (excluding Vital Statistics Administration)
- Deputy Secretary for Behavioral Health and Disabilities
- Deputy Secretary of Health Care Financing

During FY 2014, expenditures for these five units totaled $53.6 million.

The audit report included 15 findings, 3 of which were repeated from the preceding audit report **(Findings 6, 11, and 13)**.

Key Audit Issues

- Issues were identified with two information technology (IT) development projects.
  - Certain aspects of a major IT system procurement process, including the potential risks regarding the award decision, were not formally communicated by DHMH to the Board of Public Works.
  - For another IT project, DHMH did not adequately plan its development or seek the approval of the Department of Information Technology (DoIT) when the project was initiated.
- Audits of Local Health Departments and certain grantees were not performed timely and in accordance with professional standards.
- Reimbursement for the cost of care provided to patients admitted to State hospitals was not always adequately pursued, related records properly maintained, or collections adequately controlled.
- DHMH had not established sufficient security and controls over its information systems.

Medicaid Enterprise Restructuring Project (MERP)

Background

- DHMH is the State agency responsible for administering the Medicaid Program in Maryland.
- Medical providers submit claims for services rendered to eligible recipients, which are processed, adjudicated, and paid through a federally certified Medicaid Management Information System (MMIS).
- DHMH has begun the process of replacing MMIS with MERP and worked with DoIT to develop the MERP request for proposals (RFP) for a combined MMIS replacement and full fiscal agent (claims processing) services vendor.
- In January 2012, DHMH awarded a 5-year contract totaling $171 million for the period from March 2012 through February 2017, with federal funding paying for the majority of costs.
- MERP has encountered a number of publicized development problems, significantly delaying project completion.

Medicaid Enterprise Restructuring Project (cont'd)

- DHMH did not formally communicate certain pertinent aspects of the MERP procurement process and the potential risks regarding the award decision when it sought Board of Public Works (BPW) approval of the contract **(Finding 1).**
  - There was a lack of evidence that the BPW or its staff were fully apprised that
    - the RFP qualifications were changed to obtain bidders,
    - the successful bidder had past performance issues involving similar projects, and
    - a change was made to contractor liability provisions after the successful bidder was notified of the award.
  - According to the results of DHMH's bid evaluation process, it selected the contractor with the best technical evaluation and lowest price; however, the evaluation committee's results did not include a complete assessment of the potential risks involving its selection.

Medicaid Enterprise Restructuring Project (cont'd)

RFP Qualification Changes

The first of 8 RFP addendums changed the experience requirements due to potential bidder questions (8 contractors originally expressed interest in the procurement).

Originally, bidders were to have fiscal agent and MMIS implementation experience for a federally-certified state MMIS within the last 5 years, but this was changed to also consider the bidder's subcontractor and the certification period was extended to 10 years.

After this addendum, DHMH received bids from 2 contractors it deemed potentially qualified, although it is questionable whether the eventual losing bidder actually met the revised qualifications due to a lack of MMIS experience.

Medicaid Enterprise Restructuring Project (cont'd)

Technical Evaluation and Past Performance Issues

The contract award recommendation memorandum (memo) from DHMH's eight-member bid evaluation committee did not provide a complete and objective assessment of the proposals, including a description of the potential risks involving the selection of the successful bidder.

The memo commented on many bidder strengths based on an evaluation of the technical proposal, but did not comment on any past performance issues that would have provided a more complete disclosure of possible risks. For example, a key strength in the memo was the development of an MMIS in 2 states; however, no mention was made that both systems had taken longer than originally planned (up to 3 years longer) and had significant cost overruns beyond the original projects' budgets (up to 300%).

OLA believes that past performance can be indicative of future experience and risks, which should have been included in the memo.

Medicaid Enterprise Restructuring Project (cont'd)

Changes to Liability Provisions After Award

After DHMH notified the successful bidder that it had been selected, but prior to signing the contract, the bidder requested a change of then standard State contract language providing unlimited liability for breach of contract, which was included in the RFP, to a $20 million liability cap.

DHMH believed it had two options, either cancel the entire procurement or change the liability and ask both bidders to submit a last Best and Final Offer (BAFO). After obtaining legal advice, DHMH issued its 8th RFP addendum and reduced the liability to three times the contract value and requested both bidders to submit a BAFO.

OLA questioned whether there should have been a realistic expectation of receiving a BAFO from the losing bidder, given that DHMH had previously told the bidder it had not been selected, in part because it lacked fiscal agent experience and had no recent MMIS implementation experience.

Medicaid Enterprise Restructuring Project (cont'd)

Conclusion

When the contract was submitted to BPW for its approval, evidence was lacking that all pertinent considerations pertaining to DHMH's award decision had been formally communicated. DHMH's formal presentation materials for the BPW meeting and the pre-meeting briefing did not identify the significant project risks. There was no mention of:

- the changes to the experience qualification to allow for potentially qualified bidders,
- the prior negative system development experiences of the successful bidder and its subcontractor, and
- the late change in the contractor breach of contract provision.

Individuals who attended the pre-meeting recalled that other issues were discussed beyond that in the formal materials; however, other than the liability issue, the actual topics could not be recalled with clarity.

Long Term Supports and Services (LTSS)

- DHMH's LTSS IT project was not adequately planned nor was DoIT approval obtained when the project was initiated. Further, DHMH used a MOU with a State university to develop and implement the LTSS system rather than a competitive procurement **(Finding 2).** Project costs totaled $20.1 million as of 10/31/13.
  - A comprehensive development and implementation plan, including user needs, timelines, and estimated costs, was not established prior to the project's start.
  - The university subcontracted out the majority of the work without a competitive solicitation, so DHMH lacked assurances these services were received at the best value. DHMH did not formally approve the university's selection of the subcontractor, as required by the MOU; who was paid $7.4 million during FYs 2012 and 2013.
  - After development contract costs had well exceeded the $1 million DoIT oversight criteria, DHMH notified DoIT of the project, and DoIT advised that it should have been involved from the start of the project.

Office of the Inspector General (OIG)

- OIG had not established a formal written policy governing the timely completion of audits of local health departments (LHD) and private non-profit providers receiving grant funds, nor was there a policy to ensure that audits were conducted in accordance with professional standards **(Finding 3)**.
  - We noted 9 of the 24 LHDs and 36 of the 68 providers had not been audited in > 5 years to verify that grant funds were properly used. Related FY 2008 & 2009 grant awards totaled $217.6 million and $83.7 million, respectively.
  - For the 3 audits reviewed, written audit plans were not prepared and evidence of supervisory review of the audit work was lacking.

There are 24 LHDs and 68 providers that received grant awards of $1.8 billion and $891 million, respectively, during FYs 2008 to 2013.

Division of Cost Accounting & Reimbursements

In accordance with State law, the Division of Cost Accounting & Reimbursements (DCAR) conducts investigations of all patients admitted to DHMH facilities to determine their ability to pay, and bills and collects any amounts due. In FY 2012, DACR recovered $66 million, consisting primarily of Medicaid and Medicare collections.

- Delinquent receivables were not adequately pursued for collection and/or transfer to the State's Central Collection Unit **(Finding 6 -repeat)**. According to DHMH records, as of March 31, 2013, there were 1,615 outstanding accounts receivable totaling $22 million, of which $16 million was outstanding for > 120 days.

- DCAR lacked appropriate procedures to ensure that all cash receipts, which totaled $3.3 million in FY 2013, were deposited **(Finding 7)**.

Corporate Purchasing Cards

- Corporate Purchasing Cards (CPC) transactions were not always thoroughly reviewed and supported **(Finding 9)**. As of February 2013, cards had been issued to 325 DHMH employees and related FY 2012 expenditures were $22 million. Our test of 169 CPC purchases totaling $122,000 disclosed:
  - For 18 purchases totaling $15,000 there were no itemized receipts to support the transactions, even though related activity logs had been approved by supervisors. Also, monthly cardholder bank statements were not always approved.
  - Supervisory personnel did not always perform a documented review of Level-3 data (a detailed description of purchases provided by some merchants) to help determine the propriety of CPC transactions. We previously noted in another audit report that we used Level-3 data to identify inappropriate cardholder purchases of $45,640 at a LHD between January 2008 and February 2012.

Information Systems Security & Controls

DHMH had not established sufficient security and controls over its information systems and network.

- Intrusion detection prevention system coverage and controls for the DHMH network were insufficient **(Finding 10)**.
- Network access to critical internal network devices was not properly restricted and monitoring of security events over a critical firewall was not adequate **(Finding 11- repeat)**.
- Malware protection on DHMH workstations and servers needs improvement **(Finding 12)**.
- Controls over the National Electronic Disease Surveillance System database, which is used to track and transmit sensitive information related to infectious diseases, and the Hospital Management Information System, which records certain information for patients in State hospitals, were not sufficient **(Finding 13 – repeat)**.

Other Issues

- The DHMH OIG did not adequately verify LHD and private non-profit provider compliance with sub-vendor audit and oversight requirements (**Finding 4**).
- Records for open financial investigations of patient's ability to pay for their cost of care received in State facilities were not properly maintained and monitored by DHMH's DCAR. In addition, investigations were not always timely conducted and reviewed by supervisory personnel (**Finding 5**).
- Supervisory oversight of federal fund reimbursement requests were not always effective, resulting in errors or drawdown delays (**Finding 8**).
- Proper controls were not established over the processing of capital grant project settlement checks (**Finding 14**).
- Equipment record keeping and physical inventory procedures were not in compliance with certain State requirements (**Finding 15**).

Conclusions

DHMH should ensure that

- all pertinent circumstances regarding significant procurement award decisions are documented and disclosed to the BPW, a comprehensive plan is developed prior to IT system developments, proper DoIT approval is obtained, and arrangements with State agencies are evaluated to ensure that required services should not be obtained through a competitive procurement process;
- grant audits are performed timely and in accordance with professional standards and that compliance with various grant requirements, including sub-vendor audit and oversight requirements, is verified;
- the records related to cost recoveries for patients admitted to State hospitals are properly maintained, delinquent accounts pursued, and the deposit of collections is verified;
- proper security and controls are established over its information systems; and
- appropriate controls are established and followed.