

Audit Report

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**Department of Transportation  
State Highway Administration**

April 2016

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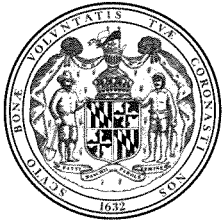
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**DEPARTMENT OF LEGISLATIVE SERVICES**  
**MARYLAND GENERAL ASSEMBLY**

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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

Warren G. Deschenaux  
Executive Director

April 20, 2016

Thomas J. Barnickel III, CPA  
Legislative Auditor

Senator Guy J. Guzzone, Co-Chair, Joint Audit Committee  
Delegate C. William Frick, Co-Chair, Joint Audit Committee  
Members of Joint Audit Committee  
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Department of Transportation – State Highway Administration (SHA) for the period beginning July 1, 2011 and ending August 6, 2014. SHA is responsible for the planning, construction, improvement, maintenance, and operations of the State highway system.

Our audit disclosed that SHA did not have adequate procedures for reviewing highway construction-related expenditures that had been suspended from the federal reimbursement process in order to identify an allowable federal grant to which these expenditures could be charged; such expenditures totaled \$13.3 million as of June 2015. SHA also did not publish certain maintenance and construction contract awards in accordance with State regulations.

The Department of Transportation's response to this audit, on behalf of SHA, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by SHA.

Respectfully submitted,

Thomas J. Barnickel III, CPA  
Legislative Auditor



## **Table of Contents**

<b>Background Information</b>	5
Agency Responsibilities	5
Status of Findings From Preceding Audit Reports	5
<b>Findings and Recommendations</b>	6
<b>Federal Funds</b>	
Finding 1 – SHA Did Not Have Adequate Procedures to Resolve Certain Highway Construction-Related Expenditures That Were Suspended From the Federal Reimbursement Process	6
<b>Contract Awards</b>	
Finding 2 – SHA Did Not Consistently Comply With Publication Requirements for Maintenance and Construction Contract Awards	7
<b>Audit Scope, Objectives, and Methodology</b>	9
<b>Agency Response</b>	Appendix



## **Background Information**

### **Agency Responsibilities**

The Transportation Article, Section 8-201, of the Annotated Code of Maryland establishes the State Highway Administration (SHA) in the Maryland Department of Transportation. SHA is responsible for the planning, construction, improvement, maintenance, and operations of the State highway system. SHA operates numerous facilities throughout the State, including a headquarters in Baltimore City and seven district offices. According to the State's accounting records, SHA's fiscal year 2015 expenditures totaled approximately \$1.6 billion.

### **Status of Findings From Preceding Audit Reports**

Based on our assessment of significance and risk relative to our audit objectives, our audit included a review to determine the status of the 10 findings contained in our preceding audit report on SHA dated November 15, 2012 as well as 8 of the 10 findings contained in our special reviews, dated June 24, 2011 and November 21, 2011. These special reviews were initiated as a result of allegations received through our fraud hotline related to possible improprieties in the procurement and monitoring of construction-related contracts. We determined that SHA satisfactorily addressed these findings.

## Findings and Recommendations

### Federal Funds

#### **Finding 1**

**The State Highway Administration (SHA) did not have adequate procedures to resolve certain highway construction-related expenditures that had been suspended from the federal reimbursement process, and related efforts were not documented.**

#### **Analysis**

SHA did not have adequate procedures for reviewing highway construction-related expenditures that had been suspended from the federal reimbursement process in order to identify an allowable federal grant to which these expenditures could be charged. SHA also did not document its investigative efforts and the ultimate disposition of these expenditures. According to SHA's records, as of June 2015, expenditures in this suspense account totaled approximately \$13.3 million. Total federal reimbursements in fiscal year 2015 were \$564 million.

Highway construction-related expenditures were initially charged to the Transportation Trust Fund, which was later reimbursed, in part, from the Federal Highway Administration (FHWA). SHA recorded these expenditures in the Maryland Department of Transportation's Financial Management Information System (MDOT FMIS) and requested weekly federal reimbursement for the appropriate percentage of these expenditures, which varied depending on the grant agreements. In certain instances, such as when the initially identified grant budget was exceeded, MDOT FMIS recorded these expenditures in a suspense account pending review by SHA personnel. Using MDOT FMIS suspense summary reports, SHA employees subsequently reviewed these expenditures to identify other available federal grants under which these expenditures were permissible, so that reimbursement could be requested. However, SHA had not established a formal approach for investigating all items on the summary report that considered timeliness and significance and for documenting their disposition and the related investigative efforts. As a result, certain expenditures remained unreimbursed in the suspense account for extended periods of time and there was a lack of assurance that all such expenditures were properly investigated and resolved.

Our test of reimbursable expenditures totaling \$3.2 million that we selected from three of the aforementioned suspense summary reports dated between April and December of 2013, disclosed that SHA did not document its work to investigate whether it had other federal funds available to reimburse these expenditures.



Working with SHA, we determined that, for \$2.5 million of these expenditures, SHA had obtained reimbursement but such reimbursements did not occur until 5 to 28 months after the expenditures had been made. While SHA asserts that the remaining expenditures, totaling \$670,000, had been investigated and reimbursed, it could not support this assertion since the investigation and disposition of these expenditures were not documented. As of June 2015, these expenditures were made at least 21 months earlier.

We were advised by FHWA officials that, because of the nature of highway construction projects, expenditures and federal reimbursements may occur over a number of years following the initial obligation of funds for a project. Nevertheless, efforts should be made to obtain reimbursements as soon as practical and adequate records should be maintained to ensure all reimbursable expenses placed in a suspense account are reimbursed.

#### **Recommendation 1**

**We recommend that SHA**

- a. establish and implement formal procedures that consider timeliness and significance for reviewing expenditures that were suspended from the federal fund reimbursement process, and**
- b. document the investigation and disposition of suspended expenditures.**

#### **Contract Awards**

##### **Finding 2**

**SHA did not consistently comply with publication requirements for maintenance and construction contract awards.**

##### **Analysis**

SHA did not consistently comply with publication requirements for maintenance and construction contract awards. Our test of six construction contracts awarded during fiscal years 2012 through 2014, totaling \$101 million, disclosed that four contract awards totaling \$74 million were not published on *eMaryland Marketplace (eMM)* within 30 days of the contract award as required by State law. Three of these contract awards totaling \$61 million were published between 2 and 20 months after the contract award dates. The fourth contract for \$12.7 million was awarded on April 9, 2012 and had not been published on *eMM* as of January 2016. Similarly, our test of eight maintenance contracts totaling \$3.2 million that were awarded during the same period disclosed the SHA had not published awards for six contracts totaling \$3 million on *eMM* as of January 2016.

State procurement regulations require such awards for contracts greater than \$25,000 to be posted to *eMM* within 30 days.

**Recommendation 2**

**We recommend that SHA publish contract awards on *eMaryland Marketplace* as required.**

## **Audit Scope, Objectives, and Methodology**

We have conducted a fiscal compliance audit of the State Highway Administration (SHA) for the period beginning July 1, 2011 and ending August 6, 2014. 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 SHA's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

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 procurement and disbursements for highway design and construction and SHA's operating expenditures, federal funds, speed enforcement, payroll, and information systems. Our audit included certain support services (such as processing of personnel transactions and maintenance of employee leave records) provided by SHA to other units of the Maryland Department of Transportation (MDOT). We also determined the status of the findings contained in our preceding audit report and certain findings contained in our special reviews of SHA dated June 24, 2011 and November 21, 2011.

Our audit did not include an evaluation of internal controls over compliance with federal laws and regulations for federal financial assistance programs and an assessment of SHA'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 SHA.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of SHA's operations, and tests of transactions. 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, the results of the tests 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 SHA's Transportation construction management information system for the purpose of selecting contract test items and assessing user access. 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.

SHA'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.

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 SHA's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes a finding regarding a significant instance of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to SHA that did not warrant inclusion in this report.

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

## APPENDIX



**Maryland Department of Transportation**  
The Secretary's Office

**Larry Hogan**  
Governor

**Boyd K. Rutherford**  
Lt. Governor

**Pete K. Rahn**  
Secretary

April 18, 2016

Thomas J. Barnickel III, CPA  
Legislative Auditor Manager  
Office of Legislative Audits  
Department of Legislative Services  
301 West Preston Street, Room 1202  
Baltimore MD 21201

Dear Mr. Barnickel:

Enclosed please find the Maryland Department of Transportation's (MDOT) responses to the Legislative Auditor's current audit of the Maryland Department of Transportation – State Highway Administration for the period beginning July 1, 2011 and ending August 6, 2014.

An electronic version was forwarded by email. If you have any questions or need additional information, please contact Mr. David L. Fleming, MDOT Office of Finance Director, at 410-865-1035. Of course, you may call me at any time.

Sincerely,

A handwritten signature in black ink, appearing to be "Pete K. Rahn", written over a circular stamp.

Pete K. Rahn  
Secretary

Confidential Enclosures

cc:

Mr. David L. Fleming, Director, Office of Finance, MDOT

Thomas J. Barnickel III, CPA  
Page Two

bcc: Ms. Brenda Cachuela, Director, Office of Audits, MDOT  
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Mr. Gregory C. Johnson, Administrator, SHA  
Mr. R. Earl Lewis, Jr., Deputy Secretary of Policy, Planning, and Enterprise Services,  
MDOT  
Mr. S. Joshua Pasch, Director, Office of Audits, SHA  
Mr. James F. Ports, Jr., Deputy Secretary of Operations, MDOT

**Maryland Department of Transportation  
State Highway Administration  
Draft Audit Responses  
Report Period July 1, 2011-August 6, 2014**

**Finding 1**

**The State Highway Administration (SHA) did not have adequate procedures to resolve certain highway construction-related expenditures that had been suspended from the federal reimbursement process, and related efforts were not documented.**

**Recommendation 1**

We recommend that SHA

- a. establish and implement formal procedures that consider timeliness and significance for reviewing expenditures that were suspended from the federal fund reimbursement process, and
- b. document the investigation and disposition of suspended expenditures.

**MDOT Response:**

- a. We agree with the Auditor's recommendation. Formal written procedures to review and resolve the unbilled receivables will be completed by June 2016. The procedures will include thresholds, criteria, and timeliness of the review, as well as, procedures mandated under the Federal Highway Administration (FHWA) highway construction program. Modifications to a federal project must occur within FHWA's Federal Financial Management Information System (FMIS) in accordance with regulations enacted in support of the Federal highway construction program.

It should be noted that all MDOT FMIS grant numbers cited in the Analysis have been modified and were collected as of September 2015.

Since 2010, the SHA Director of Finance has held weekly/bi-weekly internal meetings with Federal Aid staff to monitor the weekly "Preview – Federal Aid Billing Summary Progress Report." The focus of the meeting is to reduce the unbilled amount outstanding by initially targeting MDOT FMIS grant numbers with outstanding balances of \$100,000 or more. We reduced the threshold for review to \$50,000 during Federal Fiscal Year 2016. These criteria will be included in the formal written procedures.

- b. We agree with the Auditor's recommendation. Staff in the Federal Aid section maintains files for each federally funded project as required by FHWA. Within these files are all actions taken within the Federal FMIS system, which includes the initial project authorization, as well as, any modifications to the federal project. If an unbilled cost exists



within an MDOT FMIS grant number, a modification to the federal project or a new federal project authorization must occur in order to resolve and seek reimbursement of the outstanding amount. The modification or the new project request is documented in the federal project file.

Each federal project is managed within the Federal Aid Sections in accordance with the terms of the FHWA authorization agreement and within the Federal law. A billing cannot occur until we are able to justify to FHWA why a modification should be approved or a new project number is created to seek another source of federal funds (appropriation code).

Exchanges of information during meetings and emails are typically maintained electronically, however, the final resolution and actions taken to resolve the unbilled amount is documented in the federal project file. We will ensure that these exchanges of information are maintained in the federal project file in support of the unbilled outstanding amount and the resolution.

## **Finding 2**

**SHA did not consistently comply with publication requirements for maintenance and construction contract awards.**

## **Recommendation 2**

We recommend that SHA publish contract awards on *eMaryland Marketplace* (eMM) as required.

## **MDOT Response:**

We agree with the Auditor's recommendation. SHA has implemented changes to the procurement process. The Office of Construction (OOC) now verifies that the advertisement has been placed into eMM prior to bid opening. OOC will enter award information into eMM as the procurement process moves forward. Once the contract has been awarded, support information is forwarded to the Office of Procurement and Contract Management (OPCM) in order to have the Blanket Purchase Order (BPO) activated within FMIS. Supporting this process is a BPO Checklist that was revised in the spring of 2015 to include the eMM advertisement number and eMM award number along with a printout of each from eMM. The checklist is signed by the Procurement Officer and maintained in the file as well. Until all of the necessary information is forwarded to OPCM and verified, the BPO will not be activated, and the package returned to OOC for correction.

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