

## Special Review

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### **University System of Maryland University of Maryland, Baltimore County**

The Facilities Management Department Used an On-Call Contract to Process the  
Work of Other Vendors, Circumventing Required Procurement Policies

The Rationale and Documentation for Selecting One of the  
On-Call Contract Vendors Were Questionable

Certain Vendor Invoices Lacked Details to Substantiate the Propriety of the  
Charges for Work Performed

November 2016

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

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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

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November 9, 2016

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 review of an allegation received through our fraud, waste, and abuse hotline regarding certain questionable procurement practices at the University System of Maryland (USM) – University of Maryland, Baltimore County's (UMBC) Facilities Management Department. Our review included a contract for on-call maintenance services for which UMBC made payments totaling \$2.1 million for the period from July 2012 through February 2016.

UMBC's Facilities Management Department used the on-call maintenance contract as a means to circumvent UMBC's procurement policies, which generally require procurements costing \$5,000 or more to be competitively procured. Rather than seeking competitive bids and entering into contracts with other vendors, two Department employees processed other vendors' work through the on-call maintenance contract. This arrangement also allowed the on-call contractors to charge a mark-up fee on the other vendors' costs. It appeared that the use of the on-call maintenance contract to pay unrelated vendors was an accepted Department practice to obtain the services of vendors it preferred to perform certain work without the need to use a competitive bid process.

The two aforementioned employees exercised excessive control over the on-call maintenance contract and were generally responsible for establishing the scope of the on-call maintenance projects, assigning and monitoring the work, and approving the related invoices. This enabled these employees to process other vendors' work through the on-call maintenance contract and circumvent UMBC's *Simplified Procurement Procedures*. Specifically, these employees either directed the on-call contractors to include another vendor's invoice in the on-call invoice, or they directed the contractors to include other vendors' cost proposals in the on-call contract proposals as subcontractor work. In many instances, the on-call

contractors did not perform any of the work on these projects. While we were unable to determine the full extent to which this occurred, based on emails and other available evidence, it appeared that this occurred on at least 28 occasions for 11 vendors who were paid a total of \$209,500.

Our review of the procurement of this on-call maintenance services contract disclosed that UMBC did not document its rationale for reevaluating the technical proposal submitted by one vendor that was initially rejected, but subsequently determined to be qualified, and was selected as one of the two on-call maintenance contractors. Furthermore, only three of the six members of the original evaluation committee participated in the reevaluation and the related bid evaluation was altered without explanation, including for the three members who did not participate in the reevaluation. The aforementioned two employees who administered the on-call contract were members of the evaluation committee and participated in both evaluations of this proposal. This contractor was paid \$1 million during the period from July 2012 through February 2016.

Finally, proposals and invoices submitted by two vendors who provided flooring and seating maintenance work did not always provide sufficient detail for UMBC to substantiate the propriety and reasonableness of the charges, and certain invoices submitted by the seating vendor included questionable charges. These vendors had performed work as subcontractors for the on-call contractor but the deficiencies we noted related to work performed directly for UMBC. For example, proposals and invoices from the flooring vendor lacked details describing the square footage of the area included in the project and the associated labor hours. Six invoices submitted by the seating vendor, totaling \$7,500 contained questionable charges because the invoices included repairs on rows and seats that did not exist in the specified rooms. During the period from July 2013 through February 2016, payments made directly by UMBC to the flooring and seating vendors totaled \$190,000.

The USM Office's response, on behalf of UMBC, to our findings and recommendations is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this review by UMBC.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "T J Barnickel III", with a stylized flourish at the end.

Thomas J. Barnickel III, CPA  
Legislative Auditor

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

We conducted a review of an allegation that was received through our fraud hotline regarding questionable procurement practices related to an on-call maintenance contract in the Facilities Management Department of the University System of Maryland (USM) – University of Maryland, Baltimore County (UMBC).

The allegation related to possible violations of State and USM procurement laws, regulations, and policies regarding the use of this contract. The purpose of our review was to determine whether the allegation we received was valid and to determine if the related activities violated State and/or USM laws, regulations, and policies. This review was performed in accordance with State Government Article, Section 2-1220 of the Annotated Code of Maryland.

At the time of our review, UMBC maintained two on-call maintenance contracts. One contract was for projects estimated to cost less than \$20,000 and the other was for projects estimated to cost more than \$20,000. The allegation we received was related to the contract for projects estimated to cost less than \$20,000; therefore, we limited our review to that contract. For this one on-call maintenance contract, two contractors were selected as on-call contractors for the period from July 1, 2011 through June 30, 2013, with five one-year renewal options. Payments to these contractors totaled \$2.1 million for the period from July 2012 through February 2016.

We obtained UMBC's on-call maintenance contract files and related payment records, including corporate purchasing card activity. Our review consisted of tests, analyses, observations, and discussions with UMBC personnel and others, as we deemed necessary, to achieve our objectives. The results of our review of the allegation are identified in Finding 1. Our review also identified issues with the procurement of this on-call maintenance contract as well as the use and monitoring of certain other vendors and related billings, which are identified in the two remaining findings. Our review did not constitute an audit conducted in accordance with generally accepted government auditing standards. Our review was conducted during the period from March through June 2016.

The response from the USM Office, on behalf of UMBC, to our findings 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 USM regarding the results of our review of its response.

## **Background Information**

### **Agency Responsibilities**

The University of Maryland, Baltimore County (UMBC) is a comprehensive public research institution of the University System of Maryland (USM) and operates under the jurisdiction of the System's Board of Regents. UMBC offers a broad range of baccalaureate, graduate, and doctoral programs in the liberal arts, sciences, and engineering disciplines. Student enrollment for the Fall 2015 semester totaled 13,839, including 11,243 undergraduate students and 2,596 graduate students.

UMBC's budget is funded by unrestricted revenues, such as tuition and fees and a State general fund appropriation, as well as restricted revenues, such as federal grants and contracts. According to the State's accounting records, UMBC's Operation and Maintenance of Plant expenditures for fiscal year 2015 totaled approximately \$32 million. UMBC's Facilities Management Department, which has 98 employees, maintains 70 buildings on 512 acres of grounds, and services approximately 3.7 million square feet of space.

### **Overview**

UMBC entered into a two-year on-call maintenance contract for the period from July 1, 2011 through June 30, 2013 (with five one-year renewal options) with two contractors to complete individual maintenance and renovation projects, estimated to cost less than \$20,000, that were generally beyond the capabilities of UMBC's Facilities Management Department. On-call contracts are typically used by State institutions of higher education to obtain services from contractors on an as-needed basis and must be procured in accordance with the USM Board of Regents' *Procurement Policies and Procedures*.

Projects to be completed under the on-call contract were assigned to one of the two contractors after consideration of factors such as the type of work involved and proposed costs. The contract allowed the contractors to use the services of subcontractors, for which UMBC was charged the subcontractor's cost plus a fixed mark-up percentage. Payments to the two contractors totaled approximately \$2.1 million for the period from July 2012 through February 2016.

The hotline allegation we received pertained to two Facilities Management Department employees who were responsible for the administration of this on-call contract. Our review of the hotline allegation also included a review of the procurement of this contract, during which these two employees functioned as

members of the evaluation committee. We also reviewed the use and monitoring of certain other maintenance vendors and related billings.

Based on our review, we identified certain questionable matters as described in the findings which follow. Consequently, we referred these matters to the Office of the Attorney General – Criminal Division. UMBC should consult with the Office of the Attorney General before taking any actions related to the findings contained in this report. A referral to the Criminal Division does not mean that a criminal act has actually occurred or that criminal charges will be filed.



## Findings and Recommendations

### On-Call Maintenance Services

#### **Finding 1**

**The University of Maryland, Baltimore County's (UMBC) Facilities Management Department used an on-call maintenance contract as a means to process the work of other vendors, thereby circumventing UMBC's *Simplified Procurement Procedures*.**

#### **Analysis**

UMBC's Facilities Management Department used an on-call maintenance contract as a means to circumvent UMBC's procurement policies, which generally require procurements costing \$5,000 or more to be competitively procured. Rather than seeking competitive bids and entering into contracts with other vendors, two Department employees processed other vendors' work through the on-call maintenance contract, either by directing the on-call contractors to include another vendor's invoice in the on-call invoice, or by directing the contractors to include other vendors' cost proposals in the on-call contract proposals as subcontractor work. This arrangement also allowed the on-call contractors to charge a mark-up fee on the other vendors' costs. It appeared that the use of the on-call maintenance contract to pay unrelated vendors was an accepted Department practice to obtain the services of vendors it preferred to perform certain work without the need to use a competitive bid process.

These two Department employees exercised excessive control over the on-call maintenance contract and were generally responsible for establishing the scope of on-call maintenance projects, assigning and monitoring the work, and approving the related invoices. This enabled these employees to process other vendors' work through the on-call maintenance contract and circumvent UMBC's *Simplified Procurement Procedures*. Projects completed by vendors other than the on-call maintenance contractors and their own subcontractors should have been procured in accordance with these *Procedures* which require that procurements estimated to cost between \$5,000 and \$100,000 be forwarded to UMBC's Procurement Department for processing, and that competition be sought to the extent practical. The Procurement Department is responsible for conducting the competitive bid process, including reviewing and evaluating the bids, and for ensuring compliance with all applicable State and University System of Maryland (USM) laws, regulations, and policies.

Generally, we noted two scenarios in which the Facilities Management Department improperly used the on-call contract. In the first scenario, the two

employees responsible for administering the contract directed the two on-call contractors to invoice UMBC for maintenance work that had been performed by other vendors that were not under contract with UMBC to perform maintenance work. Specifically, the on-call contractors were directed to submit invoices to UMBC for the amount of another vendor's invoice, as if the vendor's work had been performed by a subcontractor, and to add a 10 percent mark-up fee. The on-call contractors received payment from UMBC, made payment to the other vendor for the amount of its invoice, and retained the mark-up fee.

In the other scenario, the on-call contractors were directed to use certain vendors, that were not under contract with UMBC, as subcontractors on projects. Specifically, the two employees obtained quotes from other vendors and then directed the on-call contractors to include the vendors' quotes in their project proposals as work to be performed by subcontractors. The project proposals were to include the amount of the vendor's quote plus an agreed-upon percentage mark-up, and the amount of any work to be performed by the on-call contractor. However, in many instances, the on-call contractor did not complete any of the work on these projects.

We reviewed 485 projects totaling \$2 million that were completed under this on-call contract during the period between July 1, 2012 and February 29, 2016. While we were unable to determine the total number of instances in which the on-call contractor was directed to invoice UMBC for maintenance work performed by other vendors or the on-call contractor was directed to use a specific vendor as a subcontractor, based on emails and other available evidence, it appeared that this occurred on at least 28 occasions for 11 vendors who were paid a total of \$209,500.

We were advised by Facilities Management Department management personnel that these situations occurred primarily as a matter of convenience. Specifically, the on-call contractors were asked to process other vendors' invoices generally when the amounts due the vendors exceeded \$5,000, thereby providing a means to avoid seeking competitive bids as required under the procurement procedures. In other instances, the on-call contractors were instructed to use a specific vendor as a subcontractor because the vendor had previously done very good work for UMBC and because UMBC was spending a considerable sum with the vendor over a period of time, but had not procured a contract with the vendor.

### **Recommendation 1**

#### **We recommend that UMBC**

- a. ensure procurements are performed in accordance with UMBC's *Simplified Procurement Procedures*;**

- b. discontinue its practice of processing vendor payments through its on-call contractors and directing the on-call contractors to use subcontractors selected by UMBC employees; and**
- c. properly separate the duties over the procurement, contract monitoring, and invoice approval functions for maintenance services.**

#### **Finding 2**

**UMBC did not document its rationale for reevaluating a technical proposal submitted by a vendor that was initially rejected, but subsequently selected as one of the on-call maintenance contractors, nor did UMBC adequately document the subsequent reevaluation of the bid proposal.**

#### **Analysis**

UMBC did not document its rationale for reevaluating a bid proposal submitted by a vendor that was initially rejected, but subsequently selected as one of the on-call maintenance contractors, nor did UMBC adequately document the subsequent reevaluation of this bid proposal. The two previously mentioned employees (in finding 1) who administered the on-call contract were members of the evaluation committee. As a result, there was a lack of assurance as to the propriety of the entire bid process and whether the contractor selected was actually qualified to be awarded the contract. Of the \$2.1 million in payments made under the contract during the period from July 2012 through February 2016, \$1 million was paid to the contractor whose bid was reevaluated.

UMBC solicited bids in March 2011 for the procurement of multiple contractors to perform on-call services for maintenance and renovation projects individually expected to cost less than \$20,000, with total annual expenditures estimated at \$330,000 for each contractor selected. Thirteen contractors submitted technical proposals that were evaluated by a six-member evaluation committee consisting of one employee from UMBC's Procurement Department, the two previously mentioned employees who administered the on-call contract, and three employees from other departments. An initial technical evaluation was prepared by each committee member for each proposal received, and the individual member scores were summarized on an overall bid tabulation document. For a contractor to proceed to the next phase of the bidding process, which was the submission of a price proposal, the request for proposals required that the contractor receive an average score of 75 percent on the technical proposal. After the initial evaluations were completed, losing bidders were notified and debriefing sessions were held if requested.

One losing bidder filed a protest on the basis that the vendor was more qualified than the other bidders because of experience with previous State contracts, and was granted a reevaluation of the vendor's original bid. After the reevaluation, the bidder was deemed qualified to proceed to the price proposal phase with 10 other bidders and, ultimately, was selected as one of the two on-call contractors. Our review disclosed, however, that UMBC did not document its rationale for granting the reevaluation of the protesting vendor's bid. Furthermore, the reevaluation process was not adequately performed and documented.

Specifically, only three of the six members of the original evaluation committee (the Procurement Department employee and the two employees responsible for the administration of the contract) participated in the reevaluation. These three employees changed their scores for certain rating categories without any support or explanation and also changed the scores on the final overall bid tabulation document for the three evaluation committee members who did not participate in the reevaluation. Furthermore, the bid tabulation documents were not signed by the evaluation committee members to substantiate their concurrence with the contract award decision. UMBC could not explain its rationale for reevaluating the proposal and for including only three of the six committee members in the reevaluation process.

## **Recommendation 2**

**We recommend that UMBC**

- a. adequately document the reevaluation and rationale for reevaluating vendor bid proposals, and**
- b. ensure that documentation is maintained to substantiate the concurrence by evaluation committee members of bidder rankings.**

## **Other Maintenance Services**

### **Finding 3**

**Invoices submitted by two vendors did not always provide sufficient detail to substantiate the propriety of the charges, and one vendor submitted invoices with questionable charges. In addition, some of the work performed by one of these vendors could likely have been performed by UMBC employees or the on-call maintenance contractors at a lower cost.**

### **Analysis**

Proposals and invoices submitted by two vendors did not always provide sufficient detail to substantiate the propriety of the charges, and certain invoices submitted by one of the vendors included questionable charges. During our

review of the on-call contract, we extended our work to include payments made to two vendors which performed flooring and seating maintenance work for UMBC. These vendors had, on occasion, performed work at UMBC as subcontractors to the on-call maintenance contractors; however, the conditions we note here relate specifically to projects procured by UMBC directly with these two vendors. Based on our review, we also concluded that some of the work conducted by the seating vendor could likely have been performed by UMBC employees or the on-call maintenance contractors at a lower cost.

The flooring vendor performed services, such as the installation of carpet and tile, and the seating vendor performed preventive maintenance and other repairs as needed on UMBC's lecture hall seating and bleachers. During the period from July 2013 through February 2016, payments made directly by UMBC to the flooring and seating vendors totaled \$93,000 and \$97,000, respectively. Since each project completed by these vendors cost less than \$5,000, a competitive bid process was not required by UMBC's *Simplified Procurement Procedures* for the procurement of these services.

- The proposals and invoices submitted by the flooring and seating vendors lacked sufficient details to allow UMBC to determine the propriety of the billings and to ensure costs were reasonable for the services performed. For example, proposals and invoices from the flooring vendor lacked details describing the square footage of the area included in the project and the labor hours to complete the project. In addition, certain invoices submitted by the seating vendor gave only vague descriptions of the work performed, such as "Auditorium seating repairs Lecture Hall #1," rather than details of the repairs made.
- Six invoices submitted by the seating vendor totaling \$7,500 contained questionable charges because the vendor billed UMBC for repairs on rows and seats that did not exist in the specified rooms. For example, one invoice described work on a "row K" in a lecture hall that did not have a row K. UMBC was unable to explain the apparent discrepancies we noted.
- Certain preventive maintenance and repairs on UMBC's lecture hall seating may have been performed by UMBC employees or the on-call maintenance contractors at a lower cost. The seating vendor charged \$95 per hour for maintenance and repairs, such as tightening bolts and replacing desktops. The maximum per hour charge of the on-call contractors was \$57. Three other USM institutions we contacted indicated that they use their respective maintenance employees to provide these services except on rare occasions when the nature of the work warranted an outside vendor.

**Recommendation 3**

**We recommend that UMBC**

- a. ensure that proposals and invoices contain sufficient details to enable verification of the amounts billed;**
- b. conduct a thorough review of the seating vendor's invoices and investigate and resolve any discrepancies, including recovering any amounts that are determined to be improperly billed; and**
- c. use UMBC employees or the on-call maintenance contractors to perform seating maintenance and repairs to the extent practical.**

## APPENDIX



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OFFICE OF THE CHANCELLOR

October 31, 2016

Mr. Thomas J. Barnickel III, CPA  
Legislative Auditor  
Office of Legislative Audits  
State Office Building, Room 1202  
301 West Preston Street  
Annapolis, MD 21201

Re: University System of Maryland –  
University of Maryland, Baltimore County-The  
Facilities Management Department  
Date of Audit: October 2016

Dear Mr. Barnickel:

I have enclosed the University System of Maryland's responses to your draft report covering the examination of the accounts and records of the University System of Maryland – University of Maryland, Baltimore County – The Facilities Management Department. Our comments refer to the individual items in the report.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Caret', with a long horizontal flourish extending to the right.

Robert L. Caret  
Chancellor

Enclosures  
cc:

Dr. Freeman A. Hrabowski III, Ph.D., President, UMBC  
Ms. Lynne C. Schaefer, Vice President for Administration and Finance, UMBC  
Mr. James T. Brady, Chair, University System of Maryland Board of Regents  
Mr. Robert L. Page, Associate Vice Chancellor for Financial Affairs, USM Office  
Mr. David Mosca, Director of Internal Audit, USM Office  
Ms. Sharon Doherty-Ritter, Director, Management Advisory Services, UMBC

**RESPONSE TO LEGISLATIVE AUDIT REPORT-  
SPECIAL REVIEW  
UNIVERSITY SYSTEM OF MARYLAND  
UNIVERSITY OF MARYLAND, BALTIMORE COUNTY'S  
FACILITIES MANAGEMENT DEPARTMENT  
OCTOBER 2016**

**On-Call Maintenance Services**

**Finding 1**

**The University of Maryland, Baltimore County's (UMBC) Facilities Management Department used an on-call maintenance contract as a means to process the work of other vendors, thereby circumventing UMBC's *Simplified Procurement Procedures*.**

**Recommendation 1**

**We recommend that UMBC**

- a. ensure procurements are performed in accordance with UMBC's *Simplified Procurement Procedures*;**
- b. discontinue its practice of processing vendor payments through its on-call contractors and directing the on-call contractors to use subcontractors selected by UMBC employees; and**
- c. properly separate the duties over the procurement, contract monitoring, and invoice approval functions for maintenance services.**

**University response**

We agree with the recommendation.

- a. We will ensure procurements conducted under the Simplified Procurement method are performed in accordance with UMBC's *Simplified Procurement Procedures*; and
- b. The UMBC employees responsible for managing the work performed under the on-call contracts have discontinued directing the on-call contractors to use subcontractors which they have selected and have also discontinued the practice of processing such vendor/ subcontractor payments through these on-call contractors.
- c. We have properly separated the duties over the procurement, contract monitoring, and invoice approval functions for maintenance services. Specifically, our Procurement Department is ensuring that procurements are properly completed and contracts are monitored; the Facilities Management Business Manager will be reviewing and issuing the scopes of work to the on-call contractors for pricing and subsequently reviewing the submitted proposals. Our Project Managers will be issuing the notices to proceed and approving the invoices upon completion of the work. This new procedure was effective 10/17/16.



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OCTOBER 2016**

**Finding 2**

**UMBC did not document its rationale for reevaluating a technical proposal submitted by a vendor that was initially rejected, but subsequently selected as one of the on-call maintenance contractors, nor did UMBC adequately document the subsequent reevaluation of the bid proposal.**

**Recommendation 2**

**We recommend that UMBC**

- a. adequately document the reevaluation and rationale for reevaluating vendor bid proposals, and**
- b. ensure that documentation is maintained to substantiate the concurrence by evaluation committee members of bidder rankings.**

**University response**

**We agree with the recommendation.**

- a. In instances where a reevaluation of vendor bid proposals is deemed necessary, we will adequately document the reevaluation and the rationale for the reevaluation.**
- b. We will ensure that documentation is maintained substantiating the concurrence by evaluation committee members of bidder rankings.**

**Other Maintenance Services**

**Finding 3**

**Invoices submitted by two vendors did not always provide sufficient detail to substantiate the propriety of the charges, and one vendor submitted invoices with questionable charges. In addition, some of the work performed by one of these vendors could likely have been performed by UMBC employees or the on-call maintenance contractors at a lower cost.**

**Recommendation 3**

**We recommend that UMBC**

- a. ensure that proposals and invoices contain sufficient details to enable verification of the amounts billed;**

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OCTOBER 2016**

- b. conduct a thorough review of the seating vendor's invoices and investigate and resolve any discrepancies, including recovering any amounts that are determined to be improperly billed; and**
- c. use UMBC employees or the on-call maintenance contractors to perform seating maintenance and repairs to the extent practical.**

**University response**

We agree with the recommendation.

- a. We are ensuring that proposals and invoices contain sufficient detail to enable verification of the amounts billed by specifying the required information when proposals are requested and rejecting invoices if sufficient detail is not provided.
- b. We have conducted a thorough documented review of the seating vendor's invoices and investigated the discrepancies. Although some of these invoices did have discrepancies (e.g. row identifiers), there was evidence that work was done in each of the lecture halls invoiced; therefore, we are unable to definitively determine if any amounts were improperly billed. Clearly defined scopes of work and contractor invoices that distinctly show the work performed are now being required thus allowing verification of completed work.
- c. We have evaluated the feasibility of using UMBC employees and/or the on-call maintenance contractors to perform seating maintenance and repairs. There is insufficient UMBC staff within structural trades to accomplish this work in house. We will, therefore, utilize our on call contracts to perform these repairs.