

Audit Report

**Maryland State Department of Education
Division of Early Childhood**

September 2019



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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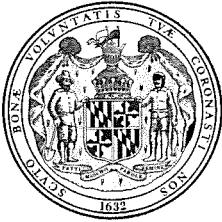
Office of Legislative Audits
301 West Preston Street, Room 1202
Baltimore, Maryland 21201
Phone: 410-946-5900 · 301-970-5900 · 1-877-486-9964 (Toll Free in Maryland)
Maryland Relay: 711
TTY: 410-946-5401 · 301-970-5401
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DEPARTMENT OF LEGISLATIVE SERVICES
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MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

September 6, 2019

Senator Craig J. Zucker, Senate Chair, Joint Audit and Evaluation Committee
Delegate Shelly L. Hettleman, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Division of Early Childhood (DEC) of the Maryland State Department of Education (MSDE) for the period beginning July 1, 2014 and ending December 31, 2017. DEC is responsible for all child care programs in the State, including licensing facilities, monitoring facility compliance with regulations, and taking enforcement actions related to child care facilities. DEC is also responsible for the Child Care Subsidy Program, which provides financial assistance to eligible families to meet their child care needs.

Our review generally found that while DEC had processes in place in a number of areas, these processes were not comprehensive and, consequently, did not ensure that sufficient safeguards existed to protect children in the care of the regulated facilities. Specifically, DEC lacked assurance that all required background checks were performed for child care employees. In addition, DEC lacked assurance that alerts of possible criminal activity by child care employees were adequately and timely pursued. DEC also did not ensure that child care facilities corrected deficiencies noted during annual inspections and did not take all available administrative actions when facilities failed to correct deficiencies.

DEC also lacked procedures and controls to ensure that invoices for child care subsidies were properly supported and payments were made only to eligible recipients. DEC also lacked assurance that valid attendance records supported subsidy payments to providers.

Finally, our audit included a review to determine the status of two findings related to DEC that were contained in our preceding audit report of MSDE dated June 22, 2016. We determined that DEC satisfactorily addressed one of these findings. The other finding is repeated in this report.

MSDE's response to this audit, on behalf of DEC, is included as an appendix to this report. In accordance with State law, we have reviewed the response and identified a number of instances in which statements in the response conflict with or disagree with the report findings or related recommendations. In each instance, we reviewed and reassessed our audit documentation, and reaffirmed the validity of our findings. In one case, we slightly modified information presenting certain test results, but this had no impact on the continued validity of the related finding or recommendation.

In accordance with generally accepted government auditing standards, we have included sixteen "auditor comments" within MSDE's response to explain our positions. These auditor comments reflect significant disagreements over the nature and comprehensiveness of key aspects of DEC operations. The disagreements generally relate to findings indicating that controls were inadequate to ensure compliance with State regulations and DEC policies and procedures. While MSDE disagrees with our findings and recommendations, our test results support the need for these controls to safeguard and protect children under the care of facilities regulated and overseen by DEC. We will advise the Joint Audit and Evaluation Committee of any outstanding issues that we cannot resolve with MSDE.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive, flowing style.

Gregory A. Hook, CPA
Legislative Auditor

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* Denotes item repeated in full or part from preceding audit report

Background Information

Agency Responsibilities and Audit Scope

The Maryland State Department of Education's Division of Early Childhood (DEC) is responsible for overseeing all child care programs in the State, including licensing child care facilities and monitoring and enforcing facility compliance with regulations (such as health and safety standards and criminal background check requirements). DEC oversees these facilities through its 13 regional child care offices across the State. According to State records, as of August 2017, the State's licensed child care facilities consisted of 5,942 family child care homes and 2,700 child care centers, which were licensed to serve approximately 217,000 children.

DEC is also responsible for the Child Care Subsidy Program, which provides financial assistance to eligible families to meet their child care needs. This program is primarily administered by a vendor, under contract with DEC, in conjunction with the State's 24 local departments of social services. According to State records, during fiscal year 2017, child care subsidy program expenditures totaled approximately \$76.9 million (\$40.8 million in general funds and \$36.1 million in federal funds).

DEC uses the Child Care Administration Tracking System (CCATS) to record, approve, and monitor child care facility licenses; to track individuals associated with those facilities and help ensure that all required criminal background checks are obtained; and to process subsidy-related eligibility, vouchers, and payments. CCATS is operated by a primary service provider, under a State of Maryland contract, which is responsible for system management and operations support, with related system hosting services being provided by a subcontractor.

According to the State's records, DEC's operating expenditures totaled approximately \$166.7 million during fiscal year 2017. The operations of DEC were previously audited in conjunction with our audit of the Maryland State Department of Education.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the two findings related to DEC that were contained in our preceding audit report of the Maryland State Department of Education dated June 22, 2016. We determined that DEC satisfactorily addressed one of these findings. The remaining finding is repeated in this report as Finding 1.

Findings and Recommendations

Criminal Background Checks

Background

As part of its responsibility for overseeing all child care programs in the State, the Maryland State Department of Education's Division of Early Childhood (DEC) is responsible for ensuring that licensed child care facilities comply with criminal background check (CBC) requirements. According to State and federal law, on or before the first day of employment at a licensed child care facility, all individuals who will have unsupervised access to children must apply for a CBC, which includes checks of federal and State criminal background databases and sex offender registries. Child care facilities are required to enforce this CBC requirement to ensure that individuals with any qualifying criminal history are precluded from being a child care provider. To facilitate DEC monitoring of the CBC requirements, child care facilities are required to provide their respective DEC regional office with information on each new employee (such as name, address, date of birth, and social security number). In addition, the facilities must forward to DEC a notarized child protective services (CPS) clearance check authorization signed by the employee.

DEC regional office personnel enter the new employee information into the Child Care Administration Tracking System (CCATS) and complete the CPS clearance checks by reviewing the Department of Human Services' Children's Electronic Social Services Information Exchange for information about the child protective services history of each new employee. Each regional office also obtains daily updates from the Criminal Justice Information System (CJIS) on the results of child care facility employee CBCs and alerts on any subsequent criminal activity for these employees. Weekly summaries of the alerts are also sent to DEC headquarters. Regional office personnel are to review the CBC and alert information to determine if offenses identified are qualifying crimes that would preclude an individual from being a child care provider.

Because the CBC process is initiated when an employee is hired to work for a child care provider, timely action to identify and resolve any disqualifying past events is necessary to limit the employee's interaction with children or to remove the employee from that environment. According to its records, DEC was notified of approximately 75,600 CBC results and 5,900 alerts in fiscal year 2017.

Finding 1

DEC headquarters did not provide sufficient oversight to ensure that the regional offices were effectively monitoring child care facility compliance with CBC and CPS clearance check requirements. Our tests disclosed numerous instances in which employees had not obtained required CBCs or CPS clearances, and in which alerts of subsequent criminal activity were not subject to sufficient follow-up.

Analysis

DEC did not provide sufficient oversight to ensure that the regional offices were effectively monitoring child care facility compliance with CBC and CPS clearance check requirements. Our tests disclosed numerous instances in which employees had not obtained required CBCs or CPS clearances, and in which alerts of subsequent criminal activity were not subject to sufficient follow-up.

DEC Procedures were Not Sufficient to Track Child Care Facility Employees and Ensure All Required CBCs and CPS Clearances Were Obtained

DEC did not have comprehensive oversight procedures to ensure that all employees reported to regional offices by child care facilities were recorded in CCATS, and that DEC had obtained the required CBCs and CPS clearances. Specifically, DEC did not require its regional offices to maintain a log of new employees reported by child care facilities. Accordingly, there was no formal means for the regional offices and DEC headquarters to ensure that all new employees reported by the facilities were properly recorded in CCATS, the required CBC results were received and reviewed timely, and CPS clearances were properly verified. Based on our testing, we noted that several employees reported by the facilities had not been recorded in CCATS, and DEC regional offices did not have documentation of the required CBCs and complete CPS clearances on file for certain employees.

Our test of 20 child care employees recorded on personnel lists provided to DEC by 13 facilities disclosed that two employees hired by one facility—one prior to September 2014 and one prior to August 2016—had not been recorded in CCATS as of February 2018. In addition, our test of these 20 employees and an additional 11 employees we selected from CCATS records disclosed that DEC regional offices did not have all the required CBCs or a complete CPS clearance on file for 12 employees who had been hired between 6 months and 11 years prior to our test. For example, for the aforementioned two employees who had not been recorded in CCATS, DEC regional offices did not have any record of State and federal CBCs or CPS clearances being performed.

We were advised by DEC management that, during the audit period, CCATS did not have the capability to track the CBC and CPS compliance. However, based on our feedback during the audit, DEC advised us that it intends to implement system enhancements to enable monitoring of this activity.

DEC Did Not Have Sufficient Procedures to Track CBC-related Alerts from CJIS and Ensure They Were Properly Investigated

DEC did not have adequate procedures to ensure that regional offices conducted comprehensive follow-up of all CBC-related alerts from CJIS. As a result, our tests disclosed that certain alerts were not subject to investigation by regional office personnel, and the investigation and follow-up of other alerts were not sufficiently comprehensive. DEC headquarters maintained an automated centralized log of alerts compiled from the weekly summaries received from CJIS on which regional office personnel were to document their alert investigations and follow-up actions.

- DEC headquarters did not include all alerts received from CJIS on its central alert log. Specifically, when numerous alerts were received for the same individual with the same employer information, DEC headquarters only recorded the first alert on the log. For example, DEC headquarters received 10 alerts during fiscal year 2017 for one individual but only recorded one of the alerts on the log. Since each alert may identify a new qualifying crime requiring follow-up action, DEC should have recorded all the alerts on the log for follow-up by regional office personnel. DEC headquarters, therefore, could not ensure regional office personnel appropriately followed up on alerts that were omitted from the log. During fiscal year 2017, approximately 1,400 alerts relating to 960 individuals were excluded from the log because of this practice.
- DEC headquarters did not follow up with the regional offices when they did not sufficiently investigate alerts. Our test of 37 alerts recorded on the alert log that were to be investigated by 11 of its 13 regional offices during the period from July 2014 through December 2017 disclosed that DEC headquarters did not follow up on 26 alerts that were not adequately investigated.

Specifically, for 7 alerts, the log indicated that the individuals were end-dated (that is, no longer working at a facility) on CCATS. In accordance with its procedures, regional office personnel did not confirm whether the individuals were currently employed at the child care facility. For 2 alerts, although regional office personnel requested information from the facilities, the information was never received.

Finally, for the remaining 17 alerts, the log indicated that no follow-up action was taken by regional office personnel because the entities listed on the alerts were not recorded in CCATS. Our research disclosed that, while these entities were not child care facilities, these entities appeared to provide child care-related services such as schools and independent staffing agencies that provided personnel to regulated child care facilities and to other facilities serving children. Therefore, in our opinion, in order to safeguard the welfare of children in these facilities, the DEC regional offices should have conducted additional follow-up to determine if these individuals had been assigned to regulated child care facilities by these entities and taken other appropriate actions.

The lack of adequate procedures to ensure compliance with CBC requirements was commented upon in our preceding audit report of the Maryland State Department of Education.

Recommendation 1

We recommend that DEC headquarters establish adequate oversight procedures to ensure that the regional offices are effectively monitoring child care facility compliance with CBC and CPS requirements. Specifically, we recommend that DEC

- a. require regional offices to maintain a log of new employees reported by the child care facilities for monitoring purposes;**
- b. periodically review these logs to ensure that all child care facility employees are properly recorded in CCATS, and that all employees have obtained complete and timely CBC and CPS clearances, including those identified above (repeat);**
- c. record all CJIS alerts in its centralized monitoring log, including those identified above; and**
- d. take appropriate follow-up action to ensure regional offices sufficiently investigate and resolve all recorded alerts (repeat).**

Child Care Facility Inspections

Background

Regional office licensing staff are required to conduct annual inspections of each licensed child care facility to ensure compliance with State laws and regulations. The inspections are used to monitor the facilities' compliance with critical requirements such as CBCs, staffing ratios, child supervision, cleanliness and sanitation, health and nutrition, and abuse and neglect reporting. According to

DEC records, DEC regional offices conducted 9,884 inspections of 8,137 facilities during fiscal year 2017.

Finding 2

DEC headquarters did not ensure that regional offices conducted comprehensive annual inspections of child care facilities, followed up with facilities regarding the correction of deficiencies, and took appropriate administrative action when facilities did not correct deficiencies.

Analysis

DEC headquarters did not have procedures to monitor child care facility inspections performed by regional office licensing staff and ensure that the related follow-up efforts taken were comprehensive and deficiencies were corrected. Our tests of child care facilities disclosed that regional DEC licensing staff did not always document that child care facilities were compliant with certain critical requirements, ensure facilities corrected deficiencies, and always ensure facilities took appropriate administrative action when deficiencies were not corrected timely.

- During child care facility inspections, the regional office licensing staff did not always ensure that employees working at the facilities had been recorded in CCATS. As a means to monitor facility reporting of new employees, DEC's *Guidance for Verifying Staff Employment* procedure required licensing staff to review the facility's employment records during inspections and ensure all current employees were recorded in CCATS.

Our test of the most recent inspections for 14 facilities (in 11 regions) that employed 105 child care workers disclosed that 6 of the 14 employees then employed at one facility inspected in March 2017 had not been recorded in CCATS as of February 2018. While we found that the facility provided a list of all employees to the licensing staff prior to the March 2017 inspection, the licensing staff did not identify that these 6 employees had not been recorded in CCATS when they were initially hired. In addition, licensing staff did not subsequently record these employees, as required, following the inspection. The recordation of facility employees into CCATS could facilitate DEC's monitoring of CBC requirements.

- The regional office licensing staff was not required to document on the inspection form that they verified whether volunteers working at child care facilities were adequately supervised. State regulations exclude volunteers from CBC requirements, but provide that volunteers are not allowed to have

unsupervised access to children. Our review disclosed that the inspection results for the 14 facilities tested did not document the number of volunteers working at the facilities, the work schedule of the volunteers, and whether regional office staff sighted volunteers during the inspections to ensure that adequate supervision was in place. As a result, there is a lack of assurance that volunteers were properly supervised.

- The regional office licensing staff was not required to document on the DEC inspection form if facilities performed comprehensive investigations of CBC alerts for individuals hired before October 2005. In accordance with State regulations, facility employees hired prior to October 2005 are subject to monitoring by the respective facilities, rather than by the DEC regional offices.¹ However, the regional offices did not ensure that the facilities were monitoring these employees by investigating related alerts. According to DEC records, at least 2,860 individuals were actively employed at child care facilities as of April 2018 that were hired prior to October 2005.
- The regional office licensing staff did not ensure that facilities corrected deficiencies (violations of licensing regulations) noted during the annual inspections and did not always take available administrative action when deficiencies were known to not have been corrected timely, as required. According to DEC records, at a minimum, 420 of the 9,884 inspections performed during fiscal year 2017 had one or more unresolved deficiency as of April 2018. DEC procedures require the regional office licensing staff to document the follow-up efforts in CCATS. DEC procedures also require the regional offices to follow up with facilities until all deficiencies are resolved. Facilities that do not address deficiencies may be subject to administrative action (such as temporary closure).

Our test of inspections conducted for 11 facilities (in 4 regions) during the period from March 2015 through December 2017 disclosed that, as of March 2018, no information was recorded in CCATS that 31 deficiencies identified at 4 facilities had been corrected for periods from 80 days to almost three years. For example, of the 7 deficiencies noted for one facility from its March 2015 inspection, 2 were repeated in its March 2017 inspection and had not been resolved as of March 2018. These deficiencies included missing emergency contact information for children and incomplete personnel files for staff. There were no records in CCATS of any DEC follow-up or administrative action taken related to these facilities.

¹ While State regulations state employees hired prior to October 2005 are subject to monitoring by the facilities, the corresponding State law does not specify such a date.

Recommendation 2

We recommend that DEC headquarters establish appropriate procedures to

- a. monitor the annual child care facility inspections conducted by regional office personnel to ensure the inspections are comprehensive, including verifications that all employees were entered into CCATS, that facilities were adequately supervising any volunteers, and that all alerts are investigated for employees hired before October 2005; and**
- b. ensure regional offices follow up on deficiencies noted during inspections and initiate administrative actions, as deemed appropriate, for facilities with continued non-compliance.**

Child Care Subsidy Program

Background

DEC is responsible for the Child Care Subsidy Program, which provides financial assistance to eligible families to meet their child care needs. According to State records, during fiscal year 2017, child care subsidy program expenditures totaled approximately \$76.9 million (\$40.8 million in general funds and \$36.1 million in federal funds).

The State's 24 local departments of social services processed the subsidy applications for individuals receiving Temporary Cash Assistance (TCA) benefits, which accounted for approximately 32 percent of the expenditures during fiscal year 2017. The remaining activity was processed by a vendor under contract with DEC. During our current audit we reviewed the procedures and controls for monitoring the eligibility determinations and subsidy payments processed by the vendor. The vendor's five-year \$29.6 million contract covers the period from April 23, 2015 through April 30, 2020.

In determining eligibility, the vendor is required to verify applicant income, identity, and residency, and confirm that the applicant is involved in an approved activity (such as school or job) that would preclude the applicant from providing his or her own child care. The vendor also determines the amount of the subsidy based on the hours needed by the applicant for this activity. Finally, the vendor is responsible for recording the qualifying child care facility selected by an approved applicant on the associated voucher. The selected facility will submit bi-weekly invoices to the vendor for the care provided. The vendor will then enter the subsidy payment in CCATS, and the payment will be processed through an interface with the State's financial accounting system.

Finding 3

DEC lacked sufficient procedures to effectively monitor subsidy program eligibility determinations and the related payments made by its vendor, certain of which could not be supported.

Analysis

DEC did not effectively monitor its child care subsidy program vendor to ensure that proper eligibility determinations were made, subsidy payments were proper and supported, and contract performance measures were met. In addition, we found instances in which the vendor had not retained required documentation to support eligibility determinations and subsidy payments. During fiscal year 2017, the vendor was paid \$5.4 million for administering the program on behalf of approximately 14,000 children on average.

DEC Lacked Sufficient Procedures to Ensure the Propriety of Eligibility Determinations

There was not a sufficiently comprehensive process in place to ensure that proper eligibility determinations were made by the vendor. Although the DEC contract with the vendor required the vendor, for quality assurance purposes, to review three transactions per month for each of its staff members responsible for determining eligibility, those reviews were not necessarily comprehensive or of sufficient quantity and DEC did not monitor the results of the reviews. For example, in December 2017, the vendor's supervisory personnel performed 31 quality control reviews, which represented only 2.3 percent of the transactions processed by its 10 eligibility staff. In addition, the vendor was not required to expand testing when errors were identified. In this regard, our test of these 31 quality control reviews disclosed that 6 reviews (or 19 percent) identified errors made by 5 eligibility staff employees that required correction. For example, one review noted that income was not calculated correctly and a second review noted that CCATS did not accurately reflect the information on supporting documents.

In addition, our test of 15 other eligibility determinations processed by the vendor for individuals who received child care subsidies during the audit period, disclosed that documentation supporting the propriety of 3 eligibility determinations and the related subsidy amount was not retained. Further, we noted that the vendor generally did not obtain comprehensive income verification information from an available State agency database, even though this step was included as a requirement in the associated contract. Instead, the vendor obtained paystubs and tax returns from the applicants, which may not reflect all of an applicant's income.

Finally, DEC did not monitor the results of the monthly quality assurance reviews or assess the comprehensiveness of the process. Since this review is the primary basis for ensuring the propriety of eligibility determinations, we believe the vendor should conduct a larger number of reviews, which should be monitored by DEC for completeness, error trends, and vendor corrective action, as appropriate.

DEC Lacked Sufficient Procedures to Ensure the Propriety of Child Care Subsidies Paid

DEC did not ensure the vendor obtained and reviewed support for the hours invoiced by the facilities for child care subsidies. In accordance with the contract, the vendor was to randomly obtain attendance records signed by the parents for all children enrolled from 29 facilities every two weeks to verify the propriety of the subsidies invoiced. DEC did not attempt to confirm, on a test basis, that the vendor performed the verifications. In this regard, we reviewed 26 facility invoices that the vendor asserted had been verified during calendar year 2017 and noted that, for 6 invoices covering 15 children, the vendor did not have the attendance records to support a verification. As a result, there was a lack of assurance that the subsidy payments were proper and the vendor was in compliance with this contract requirement.

DEC did Not Ensure the Vendor Met Critical Performance Measures

DEC did not have a process to ensure the vendor met critical contract performance measures including the timely processing of subsidy applications and redeterminations, and timely and proper payment processing. The vendor's monthly reports to DEC generally showed that the performance measures were met; however, DEC accepted the reported performance without verifying that the information reported was accurate. For example, DEC did not compare the application processing dates on the vendor's internal database with the performance information reported by the vendor to confirm the applications were processed timely as reported.

Recommendation 3

We recommend that DEC

- a. require the vendor to conduct a sufficient number of supervisory reviews of eligibility determinations, maintain documentation of compliance with key eligibility requirements, expand its reviews when errors are identified, and take appropriate corrective action;**
- b. review the results of the vendor's quality assurance reviews of eligibility determinations, at least on a test basis, or implement its own quality assurance process to ensure that documented and proper determinations are made by vendor employees;**

- c. ensure that the vendor reviews the support for, and conducts the required monthly verifications of, facility invoices for child care subsidies; and
- d. establish a process to verify the propriety of reported performance measures, at least on a test basis.

Information Systems Security and Control

Finding 4

DEC lacked assurance that CCATS was sufficiently protected against operational and security risks.

Analysis

DEC lacked assurance that CCATS was sufficiently protected against operational and security risks. DEC personnel advised us that CCATS' primary service provider had not obtained required independent security reviews of CCATS and, independent security review reports for a critical CCATS hosting subcontractor had not been requested.

The State of Maryland contract and the MSDE agreement with CCATS' primary service provider, covering the period from July 2014 to July 2019, required annual System and Organization Controls reviews (SOC 2 Type 2) be performed for the primary service provider and all subcontractors performing material services. As of April 2018, after our inquiries, DEC determined that the CCATS primary service provider had not had the required SOC 2 Type 2 review performed. After our inquiry, DEC did obtain a SOC 2 Type 2 report for the CCATS hosting subcontractor (hosting is a significant service) from the primary service provider. The report was dated December 8, 2017 and covered the period from November 1, 2016 to October 31, 2017. We reviewed this report and found that no control weaknesses were cited. As a result of these conditions, significant CCATS operational and security risks could exist and remain undetected, resulting in increased vulnerability of the system and data to compromise or loss.

The American Institute of Certified Public Accountants has issued guidance concerning examinations of service organizations. Based on this guidance, service organizations (like the aforementioned service providers) may contract for an independent review of controls and the resultant independent auditor's report is referred to as a SOC report. There are several types of SOC reports, with varying scope and levels of review and auditor testing. One type of report, referred to as a SOC 2 Type 2 report, includes the results of the auditor's review of controls placed in operation; tests of operating effectiveness for the period under review;

and could include an evaluation of system security, availability, processing integrity, confidentiality, and privacy.

Recommendation 4

We recommend that DEC

- a. enforce the provisions of the CCATS contract and agreement, by requiring that independent SOC 2 Type 2 security reviews be performed annually for the CCATS primary service provider and all subcontractors providing material services; and**
- b. obtain and review copies of these independent reports and ensure that the independent security reviews and related reports on CCATS address all relevant and critical security controls and further ensure that the service providers implement all critical recommendations made in these reports.**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Division of Early Childhood (DEC) of the Maryland State Department of Education (MSDE) for the period beginning July 1, 2014 and ending December 31, 2017. 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 DEC'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 licensing and monitoring of child care facilities, criminal background checks and alerts of child care providers, the child care subsidy program, and information systems security and control. We also determined the status of two findings included in our preceding audit report of MSDE.

Our audit did not include support services provided to DEC by MSDE. These support services (including payroll processing, purchasing, maintenance of accounting records, federal fund recoveries, and related fiscal functions) are included within the scope of our audits of MSDE.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of DEC'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 (such as revenue and expenditure data) and the State's Central Payroll Bureau (payroll data). 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 sources were sufficiently reliable for the purposes the data were used during this audit. We also extracted data from DEC's Child Care Administrative Tracking System (CCATS) for the purpose of testing childcare facilities, providers, childcare subsidies, and 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.

DEC'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.

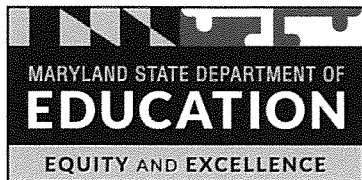
Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

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 findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect DEC's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to DEC that did not warrant inclusion in this report.

MSDE's response, on behalf of DEC, 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 MSDE regarding the results of our review of its response.

APPENDIX



Karen B. Salmon, Ph.D.
State Superintendent of Schools

August 14, 2019

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street
Baltimore, Maryland 21201

Dear Mr. Hook:

Enclosed is the Maryland State Department of Education (MSDE) response to the draft audit report on the Division of Early Childhood for the period beginning July 1, 2014, and ending December 31, 2017. We greatly appreciate the efforts of your audit staff in providing us with recommendations for improvements and developing a cooperative relationship with our agency personnel.

Please be assured that MSDE is giving significant attention to the issues identified in this audit. Should you have any additional questions or need additional clarification, please contact Ms. Channel Sumpter, Director of Audit at 410-767-0104. Again, thank you for your assistance.

Best Regards,

Karen B. Salmon, Ph.D.
State Superintendent of Schools

KBS/cds
Enclosures

c: Sylvia Lawson, Ph.D.
Carol A. Williamson, Ed.D.
Amalie Brandenburg
Channel Sumpter
Richard McElroy

**Maryland State Department of Education
Division of Early Childhood**

Agency Response Form

Criminal Background Checks

Finding 1

DEC headquarters did not provide sufficient oversight to ensure that the regional offices were effectively monitoring child care facility compliance with CBC and CPS clearance check requirements. Our tests disclosed numerous instances in which employees had not obtained required CBCs or CPS clearances, and in which alerts of subsequent criminal activity were not subject to sufficient follow-up.

We recommend that DEC headquarters establish adequate oversight procedures to ensure that the regional offices are effectively monitoring child care facility compliance with CBC and CPS requirements. Specifically, we recommend that DEC

- a. require regional offices to maintain a log of new employees reported by the child care facilities for monitoring purposes;**
- b. periodically review these logs to ensure that all child care facility employees are properly recorded in CCATS, and that all employees have obtained complete and timely CBC and CPS clearances, including those identified above (repeat);**
- c. record all CJIS alerts in its centralized monitoring log, including those identified above; and**
- d. take appropriate follow-up action to ensure regional offices sufficiently investigate and resolve all recorded alerts (repeat).**

Agency Response	
Analysis	
Please provide additional comments as deemed necessary.	<p>1. The Licensing Branch respectfully disagrees with the portion of the Analysis which states that “DEC Procedures were Not Sufficient to Track Child Care Facility Employees and Ensure All Required CBCs and CPS Clearances Were Obtained”. Specifically, Maryland COMAR Regulations require child care facilities to provide a complete list of facility personnel via Form OCC 1203 to their Regional Licensing Office, prior to being licensed. Subsequently, child care providers are required to report, via Form OCC 1203, to their Regional Office any change in staff within five business days of the change. Licensing Specialists enter staffing information into the Division of Early Childhood’s (DEC) Child Care Administration Tracking System (CCATS) as the Form OCC 1203 is received by the Regional Licensing office. In addition, during annual unannounced inspections, Licensing Specialists are required to verify child care staff as of the date of the</p>

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	inspection to that contained in CCATS. Any difference is recorded on Form OCC1203A and is input in CCATS.
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Auditor's Comment: MSDE disagrees with the factual accuracy of our analysis because procedures exist to obtain information on child care workers and conduct the related background checks. However, our review is focused on the lack of DEC controls to ensure its employees are complying with State regulations and existing DEC policies and procedures. In addition, as highlighted in the finding, our related test results, which show non-compliance with the procedures, corroborate the need for such controls.

	<p>2. Respectfully, the number of cases where CBCs and/or CPS-clearances were not obtained should be 8 rather than 12. OLA's support for the four cited non-compliant cases was that the appropriate 'CPS Clearance Finding' box on the four CPS- Release of Information forms identifying the results of the clearance verification was not checked. However, the initials of the Licensing Staff and the date on each of the four Release of Information forms signified that the CPS-clearance forms were received, reviewed and there were no exclusionary findings identified. Standard Operating procedures have been developed and provided to Licensing Staff to ensure proper documentation of the clearance findings on the Release of Information Form. The 'Guidance for Completing Release of Information Forms' explicitly instructs the Licensing Staff to check the appropriate box that corresponds with the clearance findings.</p>
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Auditor's Comment: MSDE's response maintains that 4 of the 12 cases were not exceptions because the forms were signed by the licensing staff. However, as we have explained in numerous meetings with both MSDE and DEC officials, one of these 4 forms was not signed by licensing staff and none of the 4 forms noted the conclusions reached by the licensing specialists. As a result, the forms did not document that the child care providers were eligible to be employed.

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	<p>3. The Licensing Branch respectfully disagrees with the portion of the Analysis which states that ‘DEC Did Not Have Sufficient Procedures to Track CBC-related Alerts from the Criminal Justice Investigation System (CJIS) and ensure They Were Properly Investigated.’ DEC’s procedure ‘Suitability for Employment Process’ guidance outlines the process by which the Regional Licensing Offices are required to follow up with CBC alerts. DEC Headquarters verified and provided documentation during the OLA Audit period that the 10 alerts identified by OLA were followed up with by Regional Licensing Offices Staff, who receive alert information on a daily basis.</p>
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Auditor’s Comment: MSDE’s response does not address the substance of the finding. As noted in our earlier auditor’s comment, our finding was focused on the lack of DEC controls to ensure employees are complying with State regulations and DEC policies and procedures, and the related test results demonstrating instances of non-compliance, corroborating the need for such controls.

	<p>4. Respectfully, the number of Alerts which were not adequately investigated by the Regional Licensing Offices should be 2 rather than 26. DEC respectfully disagrees that adequate follow-up was not performed by the Regional Licensing Offices for 24 of the 26 non-compliant cases identified by OLA. Upon review of the 26 non-compliant cases, it was determined that 17 of the non-compliant cases were for individuals and/or entities who were not under the jurisdiction of the Office of Child Care (OCC). Per Family Law 5-554 (e) OCC is prohibited from re-disseminating alert information. Furthermore, these 17 entities should have already received the alert directly from CJIS and should have performed their investigation. In addition, seven of the non-compliant cases were for individuals who were ‘end dated’ in the (CCATS) system, meaning they were reported by their Child Care director/owner, as no longer working at their child care facility. In line with the Licensing Branch’s ‘Suitability for Employment Process Guidance’, if an alert is received for an individual who is no longer employed with any child care facility no further action is required by the Licensing Branch. Consequently and respectfully, the number of Alerts which were not adequately investigated by the Regional Licensing Offices should be 2 rather than 26.</p>
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Auditor's Comment: MSDE disagrees with our finding for two reasons. First, MSDE disagrees because 17 of the employees were not listed in CCATS and therefore were not under the jurisdiction of DEC. However, the 17 alerts were for 7 schools, 5 staffing agencies, and 5 providers of childcare-related services. We believe that all of these scenarios could result in individuals being in unsupervised situations with children and, therefore, should require some due diligence on the part of DEC to either directly investigate the alert or ensure the appropriate regulatory entity has been notified of the alert. Second, 7 individuals were reported as no longer working at the child care facility and therefore no further action was required. However, we believe DEC should obtain payroll records for these individuals consistent with the requirement for other individuals with alerts who are not end-dated in CCATS.

Recommendation 1a	Choose an item Disagree	Estimated Completion Date:	9/1/2019
Please provide details of corrective action or explain disagreement.	<p>The Licensing Branch respectfully disagrees with the Recommendation that Headquarters require Regional Licensing Offices to maintain a log of new employees reported by child care facilities as it believes satisfactory controls and procedures already exist to record employees reported by child care facilities. The creation of a log reflecting new employees would not add value, would be redundant and inefficient as the logs would be developed from information contained on Forms OCC 1203 and 1203A which as discussed above is required to be entered into CCATS upon receipt from child care facilities. Furthermore, the perceived control weakness of not entering all staffing information reported on Forms OCC 1203 and 1203A into the CCATS system would be inherent in the recapturing of staffing information from the Form OCC 1203 and 1203A forms onto the manual log. Finally, the Licensing Office has developed additional controls whose objective is to ensure the accuracy of Child Care Provider Staffing information in the CCATS system such as requiring a complete and current OCC 1203 Form from the Provider during annual visits and a biennial supervisory review of documentation contained in Child Care Provider case files. These controls will be distributed to staff by August 31, 2019.</p>		

Auditor's Comment: As noted in our test results, DEC's procedures failed to ensure the required background checks were performed, demonstrating the need for the recommended controls. MSDE's response does not address controls to ensure that its procedures are operating as intended. The additional controls referenced in the response

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will continue to be insufficient to ensure child care facility employees are recorded timely in CCATS.

Recommendation 1b	Choose an item See Below for discussion.	Estimated Completion Date:	9/30/2020
Please provide details of corrective action or explain disagreement.	The following discussion indicates MSDE's agreement or disagreement for each of the three recommended areas for improvement.		

Auditor's Comment: The procedures listed below do not address controls to ensure all child care providers are recorded in CCATS and, therefore, that all required CBCs and CPS clearances are obtained.

	<p>1) Maintain a log of new employees. The Licensing Branch respectfully disagrees with the portion of the Recommendation related to the creation of logs of new employees at Regional Licensing Offices for reasons stated in its response to Finding 1 Recommendation a.</p> <p>2) Timely CBC and CPS clearance be obtained for all employees. The Licensing Branch agrees that complete Criminal Background Check (CBC) and CPS clearance information needs to be obtained for all child care employees who have frequent access to children. In this regard, activities related to changes in Federal regulations and also completed and in progress modifications to the CCATS system will greatly assist in achieving this objective. Specifically:</p> <p>A. It is expected, that as a result of modifications to State and Federal regulations individuals associated with child care programs will be re-fingerprinted by March 31, 2020. Therefore, this process will assist DEC with ensuring all child care providers and individuals associated with them are printed as required.</p> <p>B. The CCATS system was enhanced on June 18, 2018 to allow the tracking and monitoring of CBC and CPS clearance information.</p> <p>C. A Criminal Background Check Clearance Report is being configured in the CCATS system which will identify individuals</p>
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	<p>associated with child care programs, whose CBC and CPS Clearance information is not contained in CCATS. All activities associated with coding the report and uploading CBC data for individuals hired prior to June 18, 2018 into CCATS is expected to be completed by December 30, 2019. Effective June 18, 2018, Licensing staff have manually entered CBC information in CCATS for all new individuals associated with child care programs. It is expected that all CPS Clearance data will be entered into CCATS by September 30, 2020. The report will be produced and reviewed on a monthly basis effective December 31, 2019. Any individuals who do not have a CPS clearance or CBC information in CCATS will be followed-up with and the missing information will be tracked until it is obtained and documented in the system.</p> <p>D. Two new positions, Deputy Licensing Branch Chief, to be filled by January 31, 2020 and a CBC Coordinator filled on April 30, 2019 have been designated to join DEC's Headquarters Licensing Staff. These two positions or a central office designee will be responsible for monitoring that CBC and CPS clearances have been received for all individuals reported who are associated with child care programs by using the Criminal Background Check Clearance Report.</p> <p>E. The Licensing Branch will modify any existing or create new procedures on a timely basis regarding the implementation of the prior mentioned activities.</p> <p>3) Obtain CBC and CPS Clearances for the 12 non-compliant cases. As explained in the comments to the Analysis Section, the Licensing Branch respectfully disagrees that CPS Clearances were not completed for the 4 staff persons identified. Therefore, the number of non-compliant cases identified should be 8. The missing documentation for five of the remaining eight non-compliant cases has subsequently been obtained and is on file. The missing CPS Clearance documentation for the remaining three non-compliant cases could not be obtained as these employees are no longer employed in a child care program and the CPS Clearance form requires their signature.</p>
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Recommendation 1c	Choose an item Agree	Estimated Completion Date:	3/31/2020
Please provide details of corrective action or explain disagreement.	<p>The Licensing Branch agrees with the Recommendation that all CJIS criminal background check alerts should be recorded in the weekly Headquarters Alert Log. Consequently, as of November 1, 2018, Headquarters no longer removed duplicate alerts prior to forwarding the weekly Headquarters Alert Log to the Regional Licensing Offices. DEC Headquarters verified and provided documentation during the OLA Audit period that the 10 alerts cited by OLA were followed up with by Regional Licensing Office Staff, who receive alert information on a daily basis. On May 17, 2019, OLA provided a file containing necessary detail regarding the cited 1,400 alerts which will allow the Licensing Branch to perform an analysis and document the results of this review. This process is expected to be completed by March 31, 2020, at which time the additional 1,400 alerts and related analysis results will be posted to a centralized monitoring log for Headquarters to track.</p>		

Auditor's Comment: In its response, MSDE continues to refer to the omitted alerts as “duplicate alerts”; however, each alert represents a unique incident which needs to be investigated to ensure the individual is not disqualified from working at a child care facility.

Recommendation 1d	Choose an item Agree	Estimated Completion Date:	Various
Please provide details of corrective action or explain disagreement.	<p>The Licensing Branch agrees with the Recommendation. The Licensing Branch-Headquarters has enhanced its procedures as follows:</p> <ol style="list-style-type: none"> 1. During April 2019, the Licensing Branch Chief commenced reviewing the Headquarters Alert Log on a monthly basis. These reviews indicated that the Regional Licensing Offices are reviewing new alerts to determine if the individuals are able to be employed in a child care program. 2. The position of Criminal Background Check Coordinator (CBCC--a Headquarters (HQ) position) was filled on April 30, 2019 and this position or HQ Designee is responsible for following up and ensuring that open alerts on the Headquarters Alert Log dated during the 		

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	<p>January 1, 2018 to April 30, 2019 period have been adequately followed up and comprehensive details regarding that follow up are documented. This review is expected to be completed by June 30, 2020.</p> <p>3. The Regional Licensing Offices will be responsible for following up and closing all alerts on the Headquarters Alert Log issued after April 30, 2019, and will have on file documentation supporting these activities. To ensure all alerts, over which the Licensing Branch has jurisdiction, are documented appropriately, the Criminal Background Check Coordinator (CBCC) or HQ designee will begin performing monthly reviews of the Headquarters Alert Log beginning September 1, 2019. The CBCC or HQ Designee will contact the Regional Licensing Offices regarding any new alerts that are not properly documented to ensure alert documentation is added to the Headquarters Alert Log as needed. Also, the Licensing Branch's current procedure 'Suitability for Employment Process' will be modified by August 31, 2019, to reflect that Regional Managers and Supervisors will be required to obtain the necessary information to complete the review of the alerts on the Headquarters Alert Log by sending an original request and if necessary follow up requests for the necessary information at 90 and 180 day intervals. If the information needed to close the alert still has not been received the request will be sent to the CBCC at Headquarters who will send an additional request for the information at 270 days. At 365 days, a decision will be made to determine the next course of action.</p>
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Auditor's Comment: While agreeing with the recommendation, MSDE's response indicates that it will follow up with facilities that do not respond to the alert requests, but will not determine the next course of action for up to a year. Given the sensitivity of this subject matter and the potential vulnerability of the children under care, we believe that definitive corrective action (such as license suspensions) should be taken in a timely manner.

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	<p>4. The Licensing Branch will be hiring a Deputy Licensing Branch Chief (a HQ position) by January 30, 2020, whose responsibilities will include auditing the thoroughness of investigations for alerts on the Headquarters Alert Log performed by the Regional Licensing Offices. In this regard, on an annual basis, this position will select and review a sample of Alerts for each of the thirteen Regional Licensing Offices and determine whether they were sufficiently investigated and that all issues were satisfactorily resolved.</p> <p>5. The CCATS system is being modified to house and track alert information. These CCATS enhancements are expected to be in place by August 31, 2020.</p>
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Child Care Facility Inspections

Finding 2

DEC headquarters did not ensure that regional offices conducted comprehensive annual inspections of child care facilities, followed up with facilities regarding the correction of deficiencies, and took appropriate administrative action when facilities did not correct deficiencies.

We recommend that DEC headquarters establish appropriate procedures to

- a. monitor the annual child care facility inspections conducted by regional office personnel to ensure the inspections are comprehensive, including verifications that all employees were entered into CCATS, that facilities were adequately supervising any volunteers, and that all alerts are investigated for employees hired before October 2005; and**
- b. ensure regional offices follow up on deficiencies noted during inspections and initiate administrative actions, as deemed appropriate, for facilities with continued non-compliance.**

Agency Response	
Analysis	
Please provide additional comments as deemed necessary.	1. The Licensing Branch respectfully believes the following sentence under bullet one which states, “Our test of the most recent inspections for 14 facilities (in 11 regions) that employed 105 child care workers disclosed that 6 of the 14 employees at one facility inspected in March 2017 had not been recorded in CCATS as of February 2018”, should state that 5 (not 6) of the 14 employees were not recorded in CCATS. Specifically, the CCATS Associated Party History page shows, for test case #2, that the individual was employed from 1/1/17- 6/30/17 and also from 11/13/17-12/1/17 and therefore was recorded in CCATS when the review was performed.

Auditor’s Comment: MSDE states that one of the six employees identified by our test as not being recorded in CCATS had, in fact, been recorded at the time of our review. However, this is inconsistent with our audit results and was not previously mentioned by DEC during numerous conversations during and subsequent to the audit.

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	2. The Licensing Branch respectfully disagrees with the comment, “that the regional licensing staff was not required to document whether volunteers working at child care facilities were supervised,” under the second bullet point. Specifically, a Manual exists for each of the four types of Child Care Programs which provides specific assessment method criteria which a Licensing Specialist uses during an inspection of a child care provider to determine compliance with provisions of the Child Care subtitles (15-18) of COMAR Title 13A, which includes monitoring of volunteers. The procedures require that during each inspection licensing staff identify which staff are present and verifies that qualified personnel are in the classrooms.
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Auditor’s Comment: MSDE’s response disagrees that regional licensing staff were not required to document that volunteers were supervised at the facilities. MSDE asserts that a generic comment that child care specialists should ensure compliance with COMAR is sufficient to ensure that numerous critical child care criteria are specifically considered and addressed. MSDE also maintains that its procedures require child care workers to ensure that qualified personnel are in the classroom. However, such generic procedures are insufficient to ensure that inspections are comprehensive and that volunteers are adequately supervised.

	3. The Licensing Branch respectfully disagrees with bullet point three. Please see the response in Finding 2, Recommendation 2a.
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Auditor’s Comment: See auditor comment under Recommendation 2a below.

	4. The Licensing Branch respectfully believes that the statement ‘that regional office staff need to document the follow up efforts in CCATS’ in the fourth bullet point is inaccurate. Prior to December 8, 2016, staff could manually enter dates for follow-up inspections. No additional information regarding the inspection was added to the CCATS system. After December 8, 2016, the system began to electronically import the inspection report dates from the Electronic Licensing Inspection system. In addition, the reference to ‘the procedure that requires the regional offices to document the follow-ups efforts in CCATS’ was an incorrect
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	reference. The procedure referenced was the guidance for Conducting “Initial” Inspections. This procedure does not reference the other inspection types and does not require licensing staff to document follow-up efforts in CCATS.
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Auditor’s Comment: The procedures referred to and used to support our analysis were not limited to the initial inspections as indicated in the response. In addition, we believe that documenting the follow-up efforts in CCATS is a critical control regardless of whether it is specified in the procedures.

Recommendation 2a	Choose an item Disagree	Estimated Completion Date:	Not applicable
Please provide details of corrective action or explain disagreement.	<p>The Licensing Branch respectfully disagrees with the Recommendation. It does not believe that its Headquarters organization needs to establish appropriate procedures which require it to monitor the three stated functions performed by regional office personnel during inspections as it believes procedures are already in place for these functions. The basis for disagreement for each function is discussed below.</p> <p>1) The Licensing Branch respectfully disagrees that its Headquarters office needs to establish appropriate procedures to require it to monitor and verify that all employees are entered into CCATS because these controls are already currently in place. As discussed in the response to Finding 1 Recommendation a., satisfactory procedures and controls currently exist which ensure that CCATS contains all individuals working at a child care facility who have frequent access to children. Also, the basis for this Recommendation is related solely to one child care provider and it has been determined it resulted not from a lack of procedures but from a prior Licensing Specialist’s non-compliance with the procedures.</p>		

Auditor’s Comment: As previously explained in the auditor comment for recommendation 1a, DEC’s existing procedures are insufficient to ensure all child care employees are entered into CCATS. Furthermore, MSDE’s response does not address

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the recommendation that inspections ensure that all facility employees were entered into CCATS.

	2) The Licensing Branch respectfully disagrees that its Headquarters office needs to establish appropriate procedures to require it to monitor that regional office personnel during annual inspections verified that facilities were adequately supervising volunteers because satisfactory procedures and controls are already in place. As discussed in the Analysis section, Licensing procedures require that if volunteers are present during the inspection, the Licensing Specialist observes each volunteer to determine how they are monitored by center staff. If volunteers are not present, the director and other staff are interviewed to determine their monitoring level and procedures. The inspection report will reflect a “C”(Compliant) or ‘N’ Non-Compliant) in the box associated with the ‘volunteer’ regulation on the inspection summary report if volunteers are or are not under close supervision of a cleared staff member whenever the volunteer is in contact with unrelated children in care. Licensing procedures have been established and are utilized by Licensing Specialists which require volunteers to be observed during inspections to ensure that adequate supervision is in place.
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Auditor’s Comment: MSDE believes that its inspection summary report that includes a list of individual COMAR regulations with a corresponding notation for compliance (c) or noncompliance (n) is sufficient documentation that volunteers were adequately supervised. MSDE did not address the specific attributes included in the finding that are necessary to determine the adequacy of supervision – the number of volunteers, work schedule of volunteers, and whether volunteers were sighted during the inspection. Finally, MSDE referenced certain detailed procedures; however, no such procedures were provided to us during the audit and there was no evidence that these procedures were performed.

	3) The Licensing Branch respectfully disagrees that its Headquarters office needs to establish appropriate procedures to require it to monitor that Regional Licensing Office personnel investigate alerts for employees hired before October 2005 during annual inspections because at that time only the child care facility received these alerts. Per MD Statute, center child care providers were not able to disclose this
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	<p>information to the Licensing Branch. Subsequently, DEC was not able to receive CBC information until October 1, 2005 when House Bill 163 (MD Statue 5-554) required that Criminal Background Information be sent to the Licensing Office. Furthermore, all staff who were printed prior to 2005 have been or will be fingerprinted for the Licensing Branch by March 31, 2020, as part of the Rap Back Program. To date, over 200,000 individuals associated with child care programs have been re-printed as part of the RAP Back program. Regional Licensing Office Staff will review the Criminal Background Check reports as they are received and will take appropriate action if any disqualifying charges are noted. In addition, alerts for those individuals will be received and reviewed by Licensing and followed up with appropriate action. Such individuals will be monitored through the Headquarters Alert Log and through future CCATS enhancements.</p>
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Auditor's Comment: MSDE disagrees that it needs to establish inspection procedures to ensure that child care facilities investigated alerts for employees hired before October 2005. This disagreement relies, in part, on federal legislation, effective March 2020, which will require all child care facility staff to be fingerprinted and results reported to DEC. Prior to this federal legislation, MSDE asserts that it could not legally have access to criminal alerts received by the facilities for these employees, but did not provide any formal legal advice to support this assertion.

Recommendation 2b	Choose an item Agrees	Estimated Completion Date:	6/4/2019
Please provide details of corrective action or explain disagreement.	<p>The Licensing Branch agrees with the Recommendation. Existing procedures, 'Guidance for Removing Open Summary of Findings (SOF's) in the Electronic Licensing System' associated with correcting deficiencies noted during inspections were modified and implemented on June 4, 2019 to require Licensing Staff to use a report available from the Child Care Information System (CCIS) which lists all open "Summary of Findings" (deficiencies) identified during inspections. The revisions also require Licensing Staff to follow-up on and document the status of the child care provider's implementation of corrective action from onset to closure of deficiencies. In addition, the revised procedure 'Guidance for Removing Open Summary of Findings (SOF's) in the Electronic Licensing System' associated with taking available administrative (enforcement) action for facilities with continued non-compliance was modified in March, 2019 to include a provision whereby</p>		

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	any deficiency which has not been ‘closed’ within 90 days of the Licensing Specialist’s signature date on the inspection form will be referred to the Regional Licensing Office Manager or Supervisor to make a determination of the next course of action including possible administrative (enforcement) action. The administrative (enforcement) actions, if any, to be taken will be documented.
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Child Care Subsidy Program

Finding 3

DEC lacked sufficient procedures to effectively monitor subsidy program eligibility determinations and the related payments made by its vendor, certain of which could not be supported.

We recommend that DEC

- a. require the vendor to conduct a sufficient number of supervisory reviews of eligibility determinations, maintain documentation of compliance with key eligibility requirements, expand its reviews when errors are identified, and take appropriate corrective action;**
- b. review the results of the vendor's quality assurance reviews of eligibility determinations, at least on a test basis, or implement its own quality assurance process to ensure that documented and proper determinations are made by vendor employees;**
- c. ensure that the vendor reviews the support for, and conducts the required monthly verifications of, facility invoices for child care subsidies; and**
- d. establish a process to verify the propriety of reported performance measures, at least on a test basis.**

Agency Response	
Analysis	
Please provide additional comments as deemed necessary.	<p>1. The Subsidy Branch wants to clarify for report readers the expanse of the services provided by the vendor for the Child Care Subsidy program by stating that ‘During fiscal year 2017, the vendor was paid \$5.4 million for administering the program on behalf of approximately an average of 14,000 children per month and for completing 1,094,914 Case Management, Customer Service and Payment & Mail Processing transactions.’</p> <p>2. The Subsidy Branch wants to clarify that the statement ‘For example, in December 2017, the vendor performed supervisory reviews for 1.3 percent of the 2,450 transactions processed by its eligibility staff’ needs to be modified to ‘For example, in December 2017, the vendor performed supervisory reviews for 2.24 percent of the 1,381 transactions processed by its eligibility staff’ as the 2,450 transactions used in the calculation of the 1.3 percent included other transactions processed by the vendor which were not related to eligibility determination.</p>

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Auditor's Comment: We subsequently revised our report to reflect the information provided in MSDE's above response. The revisions were communicated to MSDE. The finding regarding the lack of sufficient procedures to effectively monitor subsidy program eligibility determinations is still valid.

Recommendation 3a	Choose an item	Agree	Estimated Completion Date:	12/1/2019
Please provide details of corrective action or explain disagreement.	<p>The Subsidy Branch agrees with the Recommendation. The current contract requires the vendor's management to perform 3 mandatory supervisory reviews of eligibility determinations per case manager per month. Effective December 1, 2019, Subsidy Branch personnel will also test the propriety of the vendor's eligibility determination by reviewing 7 cases per case manager and reviewing an additional 5 cases records per month for each case manager with an identified error. During this review, the Subsidy Branch will test that the vendor maintained documentation for key eligibility requirements. Adequate documentation regarding the aforementioned reviews will be created and maintained and the results of these reviews will be discussed with the vendor for any appropriate corrective action. The Subsidy Branch will continue this process throughout the duration of the current vendor's contract.</p>			
Recommendation 3b	Choose an item	Agree	Estimated Completion Date:	12/1/2019
Please provide details of corrective action or explain disagreement.	<p>The Subsidy Branch agrees with the Recommendation. Effective December 1, 2019, the Subsidy Branch will implement the Corrective Action Plan for testing the propriety of the vendor's eligibility determinations, as outlined in Recommendation a.</p> <p>Also, COMAR provides a listing of acceptable documents which can be used to verify the applicant's monthly income including paystubs and the vendor complied with COMAR as it used these prescribed sources in verifying applicant's monthly income. Effective April 1, 2019, a supplementary verification of monthly income was implemented whereby the vendor verifies the reported income on the customer's subsidy application to income contained in the Maryland Automated Benefits System (MABS) for the most recent quarter. Any legitimate difference(s) are investigated and resolved.</p>			
Recommendation 3c	Choose an item	Agree	Estimated Completion Date:	1/31/2020
Please provide details of corrective action or explain disagreement.	<p>The Subsidy Branch agrees with the Recommendation. Regarding the six non-compliant cases, two providers subsequently provided attendance records to support payments made to them. The remaining four non-compliant cases were caused by a system weakness which is</p>			

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	<p>expected to be corrected by January 31, 2020. In the interim, during February 2019 a manual process was developed and implemented to address the system weakness. Recovery has been obtained for three of the remaining four non-compliant cases and the remaining case has been forwarded to the CCU (Central Collection Unit).</p> <p>The vendor will be required to continue their verification of invoices as required by the contract (selection of 29 invoices per two week service period) and the vendor will be required to provide a report of the results of their bi-weekly verifications to the Subsidy Branch for review. In addition, procedures will be developed and implemented by November 30, 2019 which will require current Subsidy Staff to review 10% of the invoices reviewed by the vendor. Any error(s) will be discussed with the vendor to address technical assistance and/or training needs.</p>		
Recommendation 3d	Choose an item	Agree	Estimated Completion Date: 2/28/2020
Please provide details of corrective action or explain disagreement.	<p>The Subsidy Branch agrees with the Recommendation. Procedures are currently being developed to test the propriety of reported performance measures. Effective November 30, 2019, these procedures will be utilized on an on-going basis and will be employed to test the propriety of reported performance measures retroactively to January 2017 and where appropriate liquidated damages will be assessed. The retroactive review is expected to be completed by February 28, 2020.</p>		

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Information Systems Security and Control

Finding 4

DEC lacked assurance that CCATS was sufficiently protected against operational and security risks.

We recommend that DEC

- a. enforce the provisions of the CCATS contract and agreement, by requiring that independent SOC 2 Type 2 security reviews be performed annually for the CCATS primary service provider and all subcontractors providing material services; and**
- b. obtain and review copies of these independent reports and ensure that the independent security reviews and related reports on CCATS address all relevant and critical security controls and further ensure that the service providers implement all critical recommendations made in these reports.**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	Based on discussion with OLA and DoIT personnel, an ISO 27001 certification is an adequate substitute for a SOC 2 Type 2 review. Furthermore, the ISO 27001 certified hosting service provider is required to have an annual IT security review performed by the external body which certified them.		
Recommendation 4a	Choose an item Agree	Estimated Completion Date:	8/14/2019
Please provide details of corrective action or explain disagreement.	The Licensing Branch agrees with the Recommendation. Following the OLA Audit the CCATS primary hosting service provider came into compliance with the contractual requirement to obtain an independent security review. MSDE's CCATS Task Manager has received documentation which reflects that the ISO 27001 certification process was completed April 10, 2019. In addition, during the OLA Audit period, OLA was provided verification that the subcontractor for the CCATS hosting service provider received a SOC 2 Type 2 review, which covered the period from November 1, 2016 to October 31, 2017. This review showed that there were no control weaknesses cited. MSDE's CCATS Task Manager will monitor and retain annual documentation to reflect that the contractor and all subcontractors have maintained compliance with the requirement to obtain annual independent security reviews.		

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Division of Early Childhood**

Agency Response Form

Recommendation 4b	Choose an item Agree	Estimated Completion Date:	8/14/2019
Please provide details of corrective action or explain disagreement.	<p>The Licensing Branch agrees with the Recommendation. As of this time, there is only one subcontractor who provides material services to the primary service provider. A copy of this subcontractor's SOC 2 Type 2 report, covering the period November 1, 2016 to October 31, 2017 was obtained during the audit and is on file with MSDE's CCATS Task Manager. OLA and DEC's CCATS Task Manager reviewed the aforementioned SOC 2 Type 2 report and determined that no control weaknesses were cited. MSDE's CCATS Task Manager also obtained and reviewed a copy of the subcontractor's most recent SOC 2 Type 2 report covering the period November 1, 2017- October 31, 2018, and determined that no control weaknesses were cited. In the future, MSDE's CCATS Task Manager will obtain and review, on an annual basis, copies of SOC 2 Type 2 security reports for any subcontractor who provides material services to the primary service provider. During this review process, the CCATS Task Manager will determine whether the IT security controls tested during the SOC 2 Type 2 audit included the seven security controls mentioned in the Analysis section of OLA's ISA #1. The CCATS Task Manager will also follow up and obtain documentation of any action taken to determine that the vendor(s) have satisfactorily corrected any security concern(s) identified in section 4 (Tests of Operating Effectiveness and Results of tests) of the SOC 2 Type 2 Security Reviews.</p> <p>The primary service provider was ISO 27001 certified on April 10, 2019 and is required to have an annual IT security review performed by the certifying entity. The CCATS Task Manager will request a copy of these annual reviews and will utilize a similar review process as described above for the SOC 2 Type reports.</p>		

AUDIT TEAM

Heather A Warriner, CPA
Audit Manager

Richard L. Carter, CISA
Information Systems Audit Manager

Nathan H. Suffin, CPA
Senior Auditor

Edwin L. Paul, CPA, CISA
Information Systems Senior Auditor

John B. Wachter, CFE
Staff Auditor

Robert H. Dean
Information Systems Staff Auditor