

Audit Report

**Department of Transportation
Secretary's Office**

February 2016



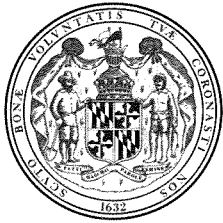
OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Warren G. Deschenaux
Executive Director

Thomas J. Barnickel III, CPA
Legislative Auditor

February 1, 2016

Senator Guy J. Guzzone, Co-Chair, Joint Audit Committee
Delegate Craig J. Zucker, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

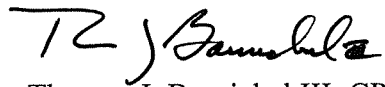
We have conducted a fiscal compliance audit of the Maryland Department of Transportation – Secretary's Office, including the Debt Service Requirements Unit (MDOT), for the period beginning July 5, 2011 and ending January 15, 2015. MDOT provides overall direction and support to five transportation modal agencies and administers the bond issuance and debt service activities associated with the Department's transportation bonds. MDOT also provides operating and capital grants for transit services in the Washington, D.C. metropolitan area as well as grants to other governmental agencies for transportation-related purposes.

Our audit disclosed that MDOT did not establish an adequate process to verify that grant awards to the Washington Metropolitan Area Transit Authority (WMATA) were properly calculated. MDOT did not document its review of the grant award calculations performed by WMATA, could not explain the nature and extent of its review, did not always obtain critical documentation to verify the accuracy of the calculations, and had not conducted audits of the grants provided beyond fiscal year 2009. For fiscal year 2014, MDOT awarded grant funds totaling \$409.6 million for Maryland's portion of WMATA's operating deficit and capital improvement program expenditures. WMATA provides transit services in Montgomery and Prince George's Counties, the District of Columbia, and several cities and counties in northern Virginia and, in addition to Maryland, receives grants from the District of Columbia and Virginia.

Our audit also disclosed that MDOT did not always follow State procurement regulations with respect to bidding requirements, documenting the basis for contract values, and publishing contract awards. Furthermore, MDOT did not properly monitor temporary employment agreements executed with two individuals.

MDOT's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by MDOT.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "TJ Barnickel III". The signature is stylized with a large "T" and "J" and a cursive "Barnickel III".

Thomas J. Barnickel III, CPA
Legislative Auditor

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Background Information

Agency Responsibilities

The Maryland Department of Transportation – Secretary’s Office (MDOT) provides overall direction and guidance to the Department including its five modal administrations (Maryland Aviation Administration, State Highway Administration, Motor Vehicle Administration, Maryland Port Authority, and Maryland Transit Administration). The other component of Maryland’s transportation system is the Maryland Transportation Authority (MdTA). Although Maryland’s Secretary of Transportation serves as the Authority’s chairman, MdTA is not overseen by MDOT.

MDOT administers the bond issuance and debt service activities associated with the Department’s consolidated transportation bonds and receives an appropriation for all debt service requirements. In addition, MDOT provides operating and capital grants to the Washington Metropolitan Area Transit Authority for transit services in the Washington, D.C. metropolitan area as well as grants to other governmental agencies (such as local transportation planning agencies) for transportation-related purposes.

MDOT is also responsible for the operation of the Office of Transportation Technology Services, which provides computing resources to the various units of the Department of Transportation and operates as a computer service bureau for these units. The computer service operations of the Office are addressed in a separate audit and, as such, were not included in the scope of this audit.

According to the State’s records, during fiscal year 2014, MDOT’s operating expenditures totaled approximately \$542 million, of which \$463.7 million related to operating and capital grants for transportation-related purposes. In addition, debt service payments totaled approximately \$200.5 million.

Audit of the Department’s Financial Statements

An independent accounting firm was engaged to audit the State of Maryland’s financial statements for the fiscal years ended June 30, 2012, 2013, and 2014. In conjunction with these audits, the firm was engaged to prepare separate audit reports on the Maryland Department of Transportation’s financial statements. In the related audit reports, the firm stated that the Department’s financial statements presented fairly, in all material respects, the respective financial position of the governmental activities, the major fund, and the aggregate remaining fund information of the Department of Transportation, and respective changes in

financial position, for the years then ended, in accordance with accounting principles generally accepted in the United States of America.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the four findings contained in our preceding audit report dated November 2, 2012. We determined that MDOT satisfactorily addressed these findings.

Findings and Recommendations

Washington Metropolitan Area Transit Authority Grants

Background

The Washington Metropolitan Area Transit Authority (WMATA) provides transit services (Metrobus, Metrorail, and MetroAccess paratransit) in Montgomery and Prince George's Counties, the District of Columbia, and several cities and counties in northern Virginia. WMATA was created in 1967 by an interstate compact between the State of Maryland, the Commonwealth of Virginia, and the District of Columbia. The Maryland Department of Transportation – Secretary's Office (MDOT) enters into annual operating and capital grants agreements with the Washington Suburban Transit Commission (WSTC), which is the financial conduit for funding mass transportation projects in Montgomery and Prince George's counties. As directed by WSTC and in accordance with the agreements, MDOT provides annual operating and capital grant funds to WMATA. These grants, along with similar funding from the Commonwealth of Virginia and the District of Columbia, fund WMATA's operating deficits and its capital improvement program expenditures (including bus and rail vehicle replacement, capital improvements, debt service, and infrastructure repair).

Annual operating subsidy grant amounts are based initially on WMATA's budgeted operating deficit for the year. Adjustments to the grants are made in a subsequent fiscal year's subsidy calculation based on the actual amount of the previous year's operating deficit according to WMATA's independent audited financial statements. Annual capital grants are based on WMATA's budgeted annual capital projects improvement plan, after considering federal funding, and on each jurisdiction's proportionate share of bond debt payments. Grant payments are made on a quarterly basis.

According to its grant award records, MDOT's fiscal year 2014 operating and capital grant awards to WMATA totaled approximately \$409.6 million (\$268.1 million for operating and \$141.5 million for capital).

Finding 1

MDOT did not establish an adequate process to verify that WMATA operating and capital grant award amounts were properly calculated, and had not audited the grants provided beyond fiscal year 2009.

Analysis

MDOT did not establish an adequate process to verify that WMATA operating and capital grant award amounts were properly calculated. These calculations are prepared by WMATA and are used to determine Maryland's portion of the operating and capital grant subsidies. Although we were advised that MDOT conducted a review of the annual calculations, MDOT did not document its review, could not explain the nature and extent of its review, and did not always obtain critical documentation to verify the calculations. In addition, although allowed by the annual grant agreements, the most recent audit conducted by MDOT was issued in March 2011 and only included grants through fiscal year 2009. Consequently, there is a lack of assurance that Maryland's portion of WMATA's allocated operating deficit and capital project costs was accurate and supported.

The annual subsidy calculations are highly complex. Each of the three transit areas (Metrobus, Metrorail, and MetroAccess) has one or more unique subsidy formula based on a number of factors (such as, density-weighted populations, ridership by jurisdiction of residence, revenue miles, and hours per jurisdiction). Given the complexity of the calculations, the annual grant agreements allowed MDOT to perform interim and final audits, within three years of the grant term.

In its most recent audit report issued in March 2011, MDOT's Office of Audits stated that its objective was to determine whether the fiscal years 2007 through 2009 subsidies allocated to Maryland by WMATA were calculated in accordance with the Board's instructions and approved formula. While the audit concluded that the subsidy amounts were reasonably accurate and complied with WMATA methodologies, the report stated that certain errors were observed, indicating there was weak internal control over subsidy allocation calculations performed by WMATA. For example, the audit noted instances of limited documentation, omission of certain statistical data (certain bus routes) in calculations, and, in one instance, the use of a methodology that was not consistent with Board resolutions. The effects of these errors could not always be determined because of limited documentation. MDOT agreed with the report's recommendations and agreed to work with WMATA to address these deficiencies, including requesting grant adjustments for errors impacting the allocations.

We reviewed the available documentation pertaining to the calculation of the fiscal year 2014 operating and capital grant subsidies totaling \$409.6 million and noted the following conditions:

- MDOT did not obtain appropriate documentation to support ridership figures, which was one of the four factors used to determine a \$106.6 million portion of the Metrobus component of the operating subsidy. Ridership figures used by WMATA in the subsidy calculation were based on 2008 ridership survey data for which support was incomplete and, considering these data are several years old, they may not represent current ridership patterns.
- MDOT could not explain why WMATA's calculation of the \$63.7 million MetroAccess component of the operating subsidy was inconsistent with the formula approved by WMATA's Board of Directors. Specifically, the approved formula required the allocation of the MetroAccess subsidy to each jurisdiction to be based on actual direct costs from a prior year (net of actual revenue). However, WMATA allocated the subsidy based on budgeted costs for the current year (net of budgeted revenue) using the portion of the total actual number of trips in each jurisdiction from a prior year. This resulted in an allocation of almost 60 percent of the budgeted MetroAccess subsidy (\$106.4 million) to Maryland. Although WMATA reported that Maryland had 60 percent of the MetroAccess trips, the actual costs of the MetroAccess trips may not have constituted 60 percent of the MetroAccess costs. We could not readily determine the effect of this inconsistency.
- MDOT did not obtain documentation to support certain adjustments to the operating subsidy calculations. For example, MDOT did not obtain documentation to support WMATA's calculation of an \$11.6 million adjustment that reduced the overall operating subsidy. This adjustment purportedly represented Maryland's share of WMATA's actual operating deficits for fiscal years 2011 and 2012 based on its audited financial statements.
- MDOT did not obtain detailed capital improvement plan budget documentation by project to support a \$69.5 million component of the fiscal year 2014 annual capital grant. Additionally, a required reconciliation of fiscal year 2013 budgeted and actual capital expenditures allocated to each jurisdiction was not obtained to support a \$10.7 million increase in the fiscal year 2014 grant.

Recommendation 1

We recommend that MDOT establish a comprehensive process to verify that WMATA's annual operating and capital grant subsidies are properly calculated. Specifically, MDOT should

- a. determine the critical components of WMATA's grant subsidy allocation calculations and obtain applicable supporting documentation for these critical components;**
- b. perform a documented review of the annual grant subsidy allocation calculations for propriety, and ensure the calculations are consistent with supporting documentation and formula requirements established by WMATA's Board of Directors; and**
- c. conduct annual audits of WMATA's operating and capital grant subsidy calculations, and recover any payments made that were not in accordance with the grant agreements.**

Contract Procurements

Finding 2

MDOT did not always comply with State procurement regulations with respect to bidding requirements and publishing contract awards. MDOT also awarded contracts in amounts substantially higher than could be supported by the related bids.

Analysis

MDOT did not always comply with State procurement regulations for securing and recording receipt of competitive bid documents and publishing contract awards on *eMaryland Marketplace (eMM)*. In addition, MDOT awarded two contracts for amounts substantially higher than could be supported by the related bid documentation. We judgmentally selected for testing five significant competitive procurements, totaling approximately \$55.7 million, and all nine sole source procurements awarded during the audit period, totaling \$17.3 million.

- MDOT did not properly secure vendor bids for three information technology related contract awards totaling \$31.3 million. As directed by the related requests for proposals, vendors sent competitive sealed bid proposals directly to an email account of an employee in MDOT's procurement office or to a group email account. The bid documents were not password protected to ensure bids were not prematurely accessed, and access to emails sent to both email accounts was not properly restricted prior to the bid opening date. Furthermore, while MDOT believed that access to the group email account was limited to employees in its procurement unit, MDOT could not provide

documentation of the individuals who were capable of accessing the account at the time the bids were received. Consequently, confidential bid information could be accessed and disclosed to prospective bidders without detection.

- MDOT did not always record when bid documents were received and opened. Specifically, MDOT could not provide any documentation (such as a date stamp or email) that bids had been received by the submission deadline for one contract totaling \$20.9 million. Additionally, for this contract and for the aforementioned three information technology contract awards totaling \$31.3 million, MDOT could not document when the bids were opened and who witnessed the bid openings. Consequently, there is no assurance that the bids met the bid submission deadlines and that the bids were opened in the presence of at least two employees, as required.
- For two competitively bid contracts totaling \$24.4 million and for the nine sole source contracts totaling \$17.3 million, MDOT did not publish the awards on *eMM*, as required. Based on our review of *eMM* records, MDOT had seven additional contract solicitations with bid opening dates between March 7, 2012 and December 2, 2013 in which the resulting awards, totaling approximately \$8.6 million, had not been published on *eMM*, as of March 18, 2015.
- Two contracts totaling approximately \$10 million were awarded for amounts substantially higher than could be supported by the bid documentation. Although the winning vendor bids for these contracts supported \$5.6 million relating to the initial contract periods, the basis for the values of the option years (\$4.4 million) could not be supported.

For example, a contract for consulting services was awarded for \$3.5 million, but the bid documentation only supported \$1.9 million for the initial five-year contract period. The remaining contract award of \$1.6 million, which pertained to the additional option periods, was established by MDOT without determining and including in the request for proposals the estimated number of labor hours needed to perform the services during those periods. Based on our calculations using the labor hour estimates from the initial contract period and the contractor's labor rates for the option periods, we calculated that \$300,000 would have been a more reasonable estimate for the additional option periods (a difference of \$1.3 million). Awarding contracts with inflated values increases the risk of misusing the contracts to procure unnecessary and/or unrelated services.

State procurement regulations require that bids be secured and opened in the presence of at least two employees, and that a record be maintained of the date contract bids were received and opened. Automated bid submission features of *eMM* could be used by MDOT to facilitate the documentation and security of the bidding process. State procurement regulations also require that competitively bid and sole source contract awards greater than \$25,000 be published on *eMM* within 30 days of the contract awards. Finally, bid evaluation documentation is also required to be maintained to support contract award decisions.

Recommendation 2

We recommend that MDOT comply with State procurement regulations. Specifically, we recommend that MDOT

- a. establish procedures to properly restrict access to competitive sealed bid proposals received electronically, including considering the use of the automated bid submission features of *eMM*;**
- b. record the dates that the bid documents are received and opened, ensure that at least two employees witness the bid openings, and maintain documentation of employees present;**
- c. publish contract awards on *eMM*, as required; and**
- d. ensure contract award amounts are supported by bid documents or maintain justification to support contract award amounts that differ from the supporting bids.**

Temporary Employment Agreements

Finding 3

MDOT did not monitor employment agreements with two individuals. As a result, payments to one individual exceeded the contract amount by \$142,000. Payments totaling \$249,000 were made for services provided by the other individual after the agreement had expired.

Analysis

MDOT did not monitor employment agreements with two individuals, resulting in payments exceeding the maximum amount allowed for one individual and payments made to the other individual for services provided after the agreement had expired.

- MDOT paid an individual approximately \$142,000 more than the maximum allowed by two consecutive employment agreements. Since 2011, MDOT had entered into annual employment agreements with this individual to assist MDOT with its Minority Business Enterprise program. According to the

agreements, payments were based on the number of hours worked, with a maximum annual compensation of \$60,000. However, for two annual employment agreements beginning May 2013, the employee was paid approximately \$262,000. MDOT terminated the employment agreement effective February 2015 prior to its ending date. According to MDOT's records, the individual was paid approximately \$403,200 during the entire contract period.

- MDOT paid \$249,000 to a State university for the services of an individual without an executed interagency agreement. Specifically, MDOT and the university entered into an interagency agreement dated July 29, 2008 to temporarily assign a university employee to MDOT for assistance with Maryland State Police helicopter procurement and contract monitoring activities. This agreement expired on June 30, 2011; however, MDOT continued to use the services of this individual. In January 2015, MDOT paid the university \$249,000 for the services of this individual during fiscal years 2012 through 2014. This amount was billed by the university based on the provisions in the expired agreement. According to MDOT's records, the university was paid approximately \$480,000 for this employee during the period from July 2008 through June 2014.

In September 2015, MDOT advised this individual that it no longer required these services. MDOT also advised us that, based on discussions with university personnel, it does not anticipate that the university will be billing MDOT for the services of the individual during the period from July 2014 to September 2015.

Recommendation 3

We recommend that MDOT

- a. monitor temporary employment agreements to ensure payments do not exceed maximum allowable amounts, and**
- b. ensure that executed agreements are established for the duration of the period of performance.**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Maryland Department of Transportation – Secretary’s Office, including the Debt Service Requirements Unit (MDOT), for the period beginning July 5, 2011 and ending January 15, 2015. 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 State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine MDOT’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 certain programs associated with transportation activities (such as the consolidated transportation program), grants, contract procurements and invoice processing, real estate sales, cash receipts, and certain payroll functions. We also determined the status of the findings contained in our preceding audit report.

An independent accounting firm was engaged to audit the State of Maryland’s financial statements for the fiscal years ended June 30, 2012, 2013, and 2014. In conjunction with these audits, the firm was engaged to prepare separate audit reports on the Maryland Department of Transportation’s (MDOT) financial statements. In the related audit reports, the firm stated that the MDOT’s financial statements presented fairly, in all material respects, the respective financial position of the governmental activities, the major fund, and the aggregate remaining fund information of the Department of Transportation, and respective changes in financial position, for the years then ended, in accordance with accounting principles generally accepted in the United States of America. We have relied on the work of the independent accounting firm to provide audit coverage pertaining to bond issuance and debt service payments. Our audit procedures in this area were generally limited, therefore, to obtaining a sufficient basis for that reliance.

The State Highway Administration provides certain payroll support services (such as the maintenance of employee leave records) to MDOT. These support services

are included within the scope of our audit of the State Highway Administration. In addition, our audit did not include the computer operations of MDOT's Office of Transportation Technology Services that are addressed in a separate audit.

Our audit also did not include an evaluation of internal controls over compliance with federal laws and regulations for federal financial assistance programs and an assessment of MDOT's compliance with those laws and regulations because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including MDOT.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of MDOT's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System and the Maryland Department of Transportation's 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 various sources were sufficiently reliable for the purposes the data were used during this 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.

MDOT'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 MDOT'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 MDOT that did not warrant inclusion in this report.

MDOT's response 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 MDOT regarding the results of our review of its response.

APPENDIX



Maryland Department of Transportation
The Secretary's Office

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Pete K. Rahn
Secretary

January 25, 2016

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

Dear Mr. Barnickel:

Enclosed please find the Maryland Department of Transportation's (MDOT) responses to the Legislative Auditor's current audit of MDOT - Office of the Secretary for the period beginning July 5, 2011 and ending January 15, 2015.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Pete K. Rahn", with a stylized flourish at the end.

Pete K. Rahn
Secretary

Confidential Enclosures

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

Finding 1

MDOT did not establish an adequate process to verify that WMATA operating and capital grant award amounts were properly calculated, and had not audited the grants provided beyond fiscal year 2009.

Recommendation 1

We recommend that MDOT establish a comprehensive process to verify that WMATA's annual operating and capital grant subsidies are properly calculated. Specifically, MDOT should

- a. determine the critical components of WMATA's grant subsidy allocation calculations and obtain applicable supporting documentation for these critical components;
- b. perform a documented review of the annual grant subsidy allocation calculations for propriety, and ensure the calculations are consistent with supporting documentation and formula requirements established by WMATA's Board of Directors; and
- c. conduct annual audits of WMATA's operating and capital grant subsidy calculations, and recover any payments made that were not in accordance with the grant agreements.

Response:

- a. We concur with the auditor's recommendation. MDOT will document the process of analyzing the WMATA grant subsidies. Additionally, MDOT will retain and verify applicable supporting documentation used by WMATA to calculate the subsidy allocations and review the necessary components that make up the allocations, including but not limited to, those recommended by the auditor. These procedures will be in place during fiscal year 2016.
- b. We concur with the auditor's recommendation. MDOT will implement a documented process during fiscal year 2016 of the reviews it performs of WMATA's annual operating and capital grant subsidy allocation calculations and formulas based on the approved Board requirements.
- c. We concur with the auditor's recommendation. The Office of Audits will conduct annual audits of WMATA's operating and capital expenditures, and recover any payments made that were not in accordance with the grant agreements. These audits will commence in Fiscal Year 2017.

Contract Procurements

Finding 2

MDOT did not always comply with State procurement regulations with respect to bidding requirements and publishing contract awards. MDOT also awarded contracts in amounts substantially higher than could be supported by the related bids.

Recommendation 2

We recommend that MDOT comply with State procurement regulations. Specifically, we recommend that MDOT

- a. establish procedures to properly restrict access to competitive sealed bid proposals received electronically, including considering the use of the automated bid submission features of *eMM*;
- b. record the dates that the bid documents are received and opened, ensure that at least two employees witness the bid openings, and maintain documentation of employees present;
- c. publish contract awards on *eMM*, as required; and
- d. ensure contract award amounts are supported by bid documents or maintain justification to support contract award amounts that differ from the supporting bids.

Response

- a. We concur with the auditor's recommendation. In October 2014, DoIT implemented a new policy requiring that Financial Responses be password protected in response to a Task Order Request For Proposal (TORFP). When TSO received the new policy, instructions were immediately forwarded to all of the Procurement Officers at TSO instructing them to follow this new process. The three electronic information technology related contracts referenced in the analysis were task orders off of a DoIT Master Contract, not procurements as defined by statute or regulation. At the time the responses were received there was no requirement in statute, regulation, or DoIT policy to secure the responses from a TORFP or a Purchase Order Request For Proposal (PORFP). At that time, responses received were not required to be password protected. Since there was no requirement for a TORFP response to be secured, the group email account was used to receive responses. In an effort to respond to the suggestion, MDOT has taken the following actions. The group email account has been closed. Responses that are received by the Procurement Officers electronically will have the financial portion password protected. When the financial portion of the response is ready to be opened, the Procurement Officer requests the password from the contractor.
- b. We concur with the auditor's recommendation. MDOT has established a policy and forwarded it to all TSO Procurement Officers with instructions to follow this process. Responses come to the Procurement Officers either electronically with the financial portion password protected or in a sealed envelope. When the financial portion of the response is ready to be opened, the Procurement Officer requests the password from the contractor and

opens the electronic financial response or envelope with a witness. The financial response is logged in and signed by both the Procurement Officer and the witness. Additionally, the Office of Procurement performs a quality control on procurements to ensure all documentation is in the file, including this financial tabulation.

- c. We concur with the auditor's recommendation. Procurement Officers at TSO have been instructed to follow the requirement to post all contract awards on eMM in accordance with the regulations. Additionally, the Office of Procurement performs a quality control on procurements to ensure posting the awards on eMM is being done.
- d. We concur with the auditor's recommendation. The type of contracts cited include elements of task-order based work, the total cost of which is difficult to estimate. However, the process to fairly evaluate the financial proposals is structured on estimated hours for labor categories. In order to ensure fair and equitable treatment, the offerors then provide hourly rates which allow the evaluation committee to evaluate the proposals. The resultant contract award amount is based on a combination of the fixed price proposed, and an estimated amount to provide for anticipated task orders. In the future, documentation to reasonably justify the contract award amount will be included in the Procurement Officer's Determination.

Temporary Employment Agreements

Finding 3

MDOT did not monitor employment agreements with two individuals. As a result, payments to one individual exceeded the contract amount by \$142,000. Payments totaling \$249,000 were made for services provided by the other individual after the agreement had expired.

Recommendation 3

We recommend that MDOT

- a. monitor temporary employment agreements to ensure payments do not exceed maximum allowable amounts, and
- b. ensure that executed agreements are established for the duration of the period of performance.

Response

- a. We concur with the auditor's recommendation. The MDOT Office of Finance found the over expended contract in December 2014 through our existing budget versus expense review process. We immediately terminated the contract and brought it to the auditors when they arrived on January 15, 2015. To improve oversight, the Accounting section is monitoring the contractual list, the maximum contract amount, and hours against the biweekly payroll journal for each payroll period. When the contract amount reaches 80% of the maximum amount allowed, the office responsible for the contract will be notified.

In addition, MDOT's Office of Minority Business Enterprise has established and implemented procedures to monitor contract expenditures. These procedures ensure proper oversight of the budget and expenditures associated with employment agreements to include reviewing timesheet and number of hours worked, creation of a tracking spreadsheet, retrieval and review of financial payment reports from MDOT's Office of Finance Office, and monthly reconciliation of payment spreadsheet. A review of these established procedures will be conducted by the Director of the MBE Office with anyone in the MBE office charged with managing a temporary employment agreement.

- b. We concur with the auditor's recommendation. We do not expect any future invoices for the project referenced in the finding. We will ensure all future projects have executed agreements in place for the entire period of performance.

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