

Audit Report

**Department of General Services
Office of Procurement and Logistics**

December 2019



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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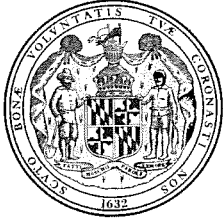
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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

December 5, 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 Department of General Services (DGS) – Office of Procurement and Logistics (OPL) for the period beginning October 28, 2015 and ending October 15, 2018. OPL responsibilities include managing the centralized procurement of certain goods and services for State agencies and monitoring providers with procurement preferences.

Our audit disclosed that OPL did not adequately monitor certain State agency procurements that were specifically subject to its oversight. As of November 30, 2018, OPL had not sufficiently audited State agencies' delegated procurement activity as required by State regulations and OPL procedures. Specifically, OPL only conducted three delegated procurement audits dating back to fiscal year 2011, and our review of these audits disclosed that the scope of the audits did not include all delegated procurements and that the workpapers did not always support the conclusions in the audit report.

Our audit also disclosed deficiencies relating to OPL's Statewide procurement responsibilities, including the failure to publish all contract awards on *eMaryland Marketplace (eMM)* as required and to provide State agencies with agreed-upon prices for products that were available to them through Intergovernmental Cooperative Purchasing Agreements (ICPAs). Additionally, we found that OPL did not properly monitor providers that, by State law, receive procurement preferences for State agency purchases. For example, OPL has not established comprehensive procedures for determining the fair market prices of goods and services available from Maryland Correctional Enterprises. We also noted that OPL did not periodically review system access to *eMM* and did not require

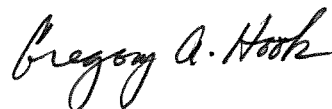
periodic reviews of the *eMM* system vendor to ensure the safeguarding and availability of the system.

Finally, our audit included a review to determine the status of five of the seven findings contained in our preceding audit report. We determined that all five of these findings are repeated in this report. As DGS had concurred with all prior audit findings and recommendations, we would have expected to see demonstrable improvement this audit. The remaining two findings related to the Statewide fuel contract and administrative fees due from vendors providing goods and services to State agencies and will be reviewed during our audit of DGS – Office of the Secretary.

DGS's response to this audit, on behalf of OPL, is included as an appendix to this report. In accordance with State law, we have reviewed the response and, while OPL generally agrees with the recommendations in the report, we identified certain instances in which statements in the response conflict with or disagree with the report findings. In each instance we reviewed and reassessed our audit documentation, and reaffirmed the validity of our finding. In accordance with generally accepted government auditing standards, we have included "auditor comments" within the response to explain our position. Finally, there are other aspects of the response which will require further clarification, including OPL's proposed implementation dates for several findings which were at least one year away, which is a concern, but we do not anticipate that these will require the Committee's attention to resolve.

We wish to acknowledge the cooperation extended to us during the audit by OPL. We also wish to acknowledge DGS's and OPL's willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

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

Gregory A. Hook, CPA
Legislative Auditor

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Agency Response

Appendix

Background Information

Agency Responsibilities

The Department of General Services (DGS) – Office of Procurement and Logistics (OPL) manages the centralized procurement of certain commodities and services for State agencies. Commodities include a wide range of items including energy, fuel, vehicles, auto parts, office and cleaning supplies, medical supplies, equipment, and food. Services include architectural and engineering, construction, and facilities maintenance. According to the State's records, during fiscal year 2018, the value of Statewide procurements awarded by OPL totaled approximately \$374 million, and OPL's expenditures totaled approximately \$9 million.

Organizational and Operational Changes

Chapter 590, Laws of Maryland 2017, effective on various dates beginning October 1, 2018 and culminating with the final implementation date of October 1, 2019, requires, among other changes, the consolidation of most state procurement activities under DGS's authority. In addition, the law establishes the position of a Chief Procurement Officer to oversee newly centralized procurement activity within the Executive Branch of the State. The consolidation will create the new Office of State Procurement with procurement personnel from the Departments of Budget and Management, Information Technology, and Public Safety and Correctional Services (capital construction) being transferred to the new procurement unit within DGS. Effective October 1, 2019, the Office of Procurement and Logistics became the Office of State Procurement.

In accordance with the aforementioned law, DGS developed a work plan on October 1, 2018 that impacted procurement at DGS. This plan included acquisition and implementation of a new eProcurement system, a new State Procurement web portal and procurement manual, new procurement employment position class descriptions, a renewed focus on delegation of procurement authority, and the oversight of that delegation by DGS through establishment of a training and certification program known as the Maryland Procurement Academy.

In addition, effective July 1, 2018, DGS transferred the Inventory Standards and Support Services Division (ISSSD) from OPL to its newly created Business Enterprise Administration. ISSSD administers the State's Automated Fuel Management Program and manages inventories and surplus property. Accordingly, those functions will be included in our audit of DGS – Office of the Secretary.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of five of the seven findings contained in our preceding audit report dated December 7, 2016. As disclosed in the following table, we determined that all five findings are repeated in this report, although OPL took limited corrective action with certain elements of several prior findings. We did not follow up on two findings in our preceding audit report that related to the Statewide fuel contract and administrative fees due from vendors providing goods and services to State agencies; the status of these findings will be reviewed during our audit of DGS – Office of the Secretary.

Status of Preceding Findings

Preceding Finding	Finding Description	Implementation Status
Finding 1	OPL did not verify the accuracy of periodic fuel usage reconciliations, sufficiently address failed fuel quality tests, and ensure State agencies were reviewing monthly fuel variance reports	Will be reviewed during audit of DGS – Office of the Secretary
Finding 2	OPL did not adequately monitor certain State agency procurements that were specifically subject to its oversight and did not review and update State procurement regulations and the DGS manual for commodity procurements as needed.	Repeated (Current Finding 1)
Finding 3	OPL did not publish contract awards totaling \$5.9 million on <i>eMaryland Marketplace</i> as required.	Repeated (Current Finding 2)
Finding 4	OPL did not always provide prices for products available from Intergovernmental Cooperative Purchasing Agreements to State agencies.	Repeated (Current Finding 3)
Finding 5	OPL did not ensure that it received all administrative fees due from vendors providing goods and services to State agencies under Statewide contracts, and our review of selected contracts disclosed uncollected fees of approximately \$222,000.	Will be reviewed during audit of DGS – Office of the Secretary
Finding 6	OPL did not establish comprehensive procedures for determining the fair market prices of goods and services available from Maryland Correctional Enterprises (MCE). Furthermore, OPL did not publish fair market prices of items available for purchase from MCE and Blind Industries and Services of Maryland as required.	Repeated (Current Finding 4)
Finding 7	OPL did not adequately monitor the coordinating entity for the Employment Works Program (EWP) to ensure that it met its responsibilities under the law and that fees it collected from EWP preferred providers were reasonable.	Repeated (Current Finding 5)

Findings and Recommendations

State Agency Procurement Monitoring

Finding 1

The Office of Procurement and Logistics (OPL) did not adequately monitor certain State agency procurements that were specifically subject to its oversight.

Analysis

OPL did not adequately monitor certain State agency procurements that were specifically subject to its oversight. In particular, OPL's responsibility for managing the centralized procurement of goods and services for the State includes monitoring State agency procurements for which, as permitted by State procurement regulations, OPL has delegated its authority for up to a specified dollar amount.

As of November 30, 2018, OPL had only conducted audits of three State agencies' delegated procurement activity since fiscal year 2011. State regulations and OPL procedures provide for these audits to ensure procurements are proper, including the use of competitive procurement for which deficiencies are often cited in our fiscal compliance audit reports of State agencies. Furthermore, our review of the three audits that were performed disclosed that the scope did not include all delegated procurements and that workpapers did not always support the conclusions in the audit report. Specifically, the audits only included a review of maintenance service contracts up to \$50,000 when the respective agencies were delegated procurements up to \$200,000. In addition, one audit report disclosed that there was no basis for a particular procurement, but the audit report concluded that no exceptions were taken and included no recommended corrective action.

According to State records, numerous State agencies made a total of 4,651 procurements over \$5,000 for commodities and maintenance services totaling \$97 million and \$32 million, respectively, during fiscal year 2018 (generally excluding purchases made with the State's corporate purchasing card). A similar condition regarding the lack of sufficient audits was commented upon in our two preceding audit reports.

Recommendation 1

We recommend that OPL

- a. monitor agency procurements by conducting audits of delegated procurements in accordance with State regulations and its procedures (repeat), and**
- b. ensure that the audits are sufficiently comprehensive and that workpapers properly support the related conclusions.**

Statewide Procurements

Finding 2

OPL did not publish contract awards totaling \$37 million on *eMaryland Marketplace*, as required.

Analysis

OPL did not publish contract awards on *eMaryland Marketplace (eMM)* as required by State procurement laws and regulations. *eMM* is an Internet-based, interactive procurement system managed by OPL. Our test of 24 commodity, facility maintenance, architectural and engineering, and construction contract awards made by OPL during the period from January 2016 through September 2018, totaling \$131.7 million, disclosed that OPL did not comply with State procurement laws and regulations with respect to the posting of eight of these awards, valued at \$37 million. Specifically, as of April 2019, OPL had not published three awards totaling \$25.4 million on *eMM* and five other awards totaling \$11.6 million were published between 60 and 932 days after the contracts were awarded.

State procurement laws and regulations require awards for contracts greater than \$50,000 (greater than \$25,000 prior to October 1, 2017) to be published on *eMM* not more than 30 days after the execution and approval of the contract.

Publishing awards on *eMM* provides transparency over State procurements, including information about winning bidders and the amount of the related awards. A similar condition was commented upon in our preceding audit report with respect to commodity and facility maintenance contract awards.

Recommendation 2

We recommend that OPL comply with State procurement laws and regulations by publishing contract awards on *eMM* within 30 days of the contract award (repeat).

Finding 3**OPL did not always provide prices for products available from Intergovernmental Cooperative Purchasing Agreements to State agencies.****Analysis**

OPL did not always provide State agencies with prices for products that were available to them through Intergovernmental Cooperative Purchasing Agreements (ICPAs) and, in these instances, agencies cannot be assured that they are paying the agreed-upon prices. ICPAs are procured by one or more federal, state, or local government agencies and consolidate the procurement of specified goods and services on behalf of multiple users. State law allows agencies to participate in ICPAs that are executed in a manner consistent with the purposes set forth in State procurement law, including fostering effective broad-based competition.

For each ICPA, OPL created one or more Statewide blanket purchase orders (BPO) for State agencies to use when making purchases. However, certain BPOs did not provide pricing for the available items, and OPL did not obtain and provide to the State agencies pricing from the agency that procured the ICPA. We reviewed OPL's participation in eight ICPAs, that included BPOs totaling approximately \$17 million, and found that for five ICPA contracts, totaling \$4.5 million, OPL did not include contract pricing on the BPO nor did it refer agencies to obtain the pricing from the lead ICPA agency. Agencies purchasing items from ICPAs when the related BPO did not include contract pricing would be just as likely to contact the vendor as the lead ICPA agency for pricing information when preparing their purchase orders. As a result, State agencies could not be assured that the prices paid for items obtained from these ICPAs were proper. State agency purchases from three of these five contractors totaled approximately \$1.5 million during calendar year 2018. No purchases were made from the other two contractors. A similar condition was commented upon in our preceding audit report.

State agencies research and identify existing ICPAs that offer goods or services meeting their needs and forward the desired ICPA to OPL for review and approval. OPL determines whether the ICPA meets the legal qualifications imposed by State laws and regulations, such as whether it will provide cost benefits to the State, and enters into a contract with the ICPA vendor. OPL then issues one or more BPOs for State agencies to access the items available through the ICPA. OPL participated in ICPA contracts with 38 entities during the period from February 2016 through September 2018 from which OPL issued 39 BPOs with a total estimated value of \$39.2 million.

Recommendation 3

We recommend that OPL either independently publish contract prices or refer agencies to pricing information from the agency that procured the ICPA for items available from ICPAs for use by State agencies (repeat).

Monitoring of Providers with Procurement Preferences

Background

State laws and regulations provide for procurement preferences to benefit disadvantaged individuals or representative organizations. Specifically, State law provides that, when goods or services can be supplied at prices that do not exceed the prevailing market prices, State aided or controlled entities shall give procurement preferences to Maryland Correctional Enterprises (MCE), Blind Industries and Services of Maryland (BISM), the Employment Works Program (EWP), and individuals with disability-owned businesses (collectively referred to as preferred providers). State regulations also place certain requirements on OPL for determining and publishing fair market prices for products and services offered by providers with procurement preferences.

Finding 4

OPL did not establish comprehensive procedures for determining the fair market prices of goods and services available from MCE. Furthermore, OPL did not publish fair market prices of items available for purchase from MCE and BISM, as required.

Analysis

OPL did not establish comprehensive procedures for determining the fair market prices of goods and services available from MCE. Furthermore, OPL did not publish fair market prices of items available for purchase from MCE and BISM, as required. According to DGS accounting records, during fiscal year 2018, State agencies spent approximately \$24.1 million on purchases from MCE and \$4.9 million on purchases from BISM.

- OPL's documented procedures for reviewing MCE prices required a verification of the fair market prices of MCE products submitted for OPL's approval, but generally only included new items and existing items for which MCE was requesting a price change. The procedures generally did not otherwise require a review of catalog pricing for existing items. OPL has not independently determined the fair market prices of all MCE products since 2003. OPL advised that price verifications for existing items were not performed because of the lack of resources. However, we noted that OPL did

not perform such verifications, even on a test basis. Consequently, there is no assurance that a fair market price verification has been conducted for all MCE catalog items.

- OPL did not comply with its aforementioned procedures to determine the fair market prices for new MCE items and existing items that had a price increase. During our audit period, MCE submitted new price requests showing its determination of comparative retail pricing for 42 separate items. OPL did not have documentation that it verified the MCE identified comparative prices or otherwise determined fair market prices for 22 of these items. For the remaining 20 items, OPL had documentation that it had approved the price request, but did not have any documentation showing the basis of its decision. MCE's procedures provide that the new prices are in effect after 30 days of submission of a price request, even if OPL does not respond to its request for approval.
- OPL did not independently publish the fair market prices of goods and services available from MCE or BISM as required. Rather, agencies purchasing items were required to use the MCE and BISM websites to obtain the pricing information. However, OPL had not verified that the prices on the websites were consistent with the approved prices.

State laws and/or regulations require OPL to independently determine the fair market prices of MCE products, and to compile, publish, and distribute a listing of those products and fair market prices, at least annually, for State agency personnel to compare with MCE's established prices when making procurement decisions. OPL is also required to publish the fair market prices of items available from BISM, as determined by the Pricing and Selection Committee for BISM and EWP.

Similar conditions regarding the verification and publishing of MCE pricing have been commented upon in our four preceding audit reports, and the failure to publish fair market prices for BISM products have been commented upon in our two preceding audit reports.

Recommendation 4

We recommend that OPL

- a. establish comprehensive procedures to independently determine and publish the fair market prices of MCE's goods and services (repeat), and ensure documented adherence to those procedures; and**

- b. publish or verify the fair market prices of BISM's goods and services as determined by the Pricing and Selection Committee for BISM and EWP (repeat).**

Finding 5

OPL did not adequately monitor the coordinating entity for EWP to ensure that it met its responsibilities under the law.

Analysis

OPL did not monitor the coordinating entity (CE) for the EWP to ensure it was appropriately fulfilling its duties under State law and did not adequately describe those duties in the Memorandum of Understanding (MOU) with the CE. State law established the EWP under DGS to facilitate the distribution of State agency procurement contracts for goods and services among community service providers¹ and businesses owned by individuals with disabilities (collectively referred to as preferred providers). The law further provides that DGS is to designate a CE to identify potential contracts for State procurement, establish procedures for the selection of preferred providers, provide training and assistance to participating providers, and monitor EWP preferred providers.

Although provided for under the January 2014 MOU, OPL had not monitored or performed any oversight of the CE to ensure that the CE was fulfilling all of its responsibilities required under State law. Furthermore, the MOU did not specify how the CE's statutory responsibilities should be carried out. For example, the MOU did not fully address the CE's responsibilities to identify potential contracts for procurement, establish procedures for the selection of preferred providers, and provide training and assistance to participating providers. Similar conditions have been commented upon in our two preceding audit reports.

Recommendation 5

We recommend that OPL

- a. monitor the CE to ensure that it is providing the goods and services required by State law and the MOU (repeat), and**
- b. specify in sufficient detail how the CE's responsibilities should be carried out (repeat).**

¹ Community service providers are not-for-profit entities accredited by the State Department of Education's Division of Rehabilitation Services for participation in the EWP and are operated in the interest of individuals who have a mental or physical disability, including blindness.

eMaryland Marketplace

Finding 6

OPL did not periodically review system access to *eMM* and did not require periodic reviews of the *eMM* vendor to ensure the safeguarding and availability of the system.

Analysis

OPL did not review and monitor access to the *eMM* system by its employees or by other agencies' employees and did not require periodic reviews of the *eMM* vendor to ensure the safeguarding and availability of the system.

- OPL did not perform periodic *eMM* system access reviews to determine whether access provided to employees was appropriate for their job duties. As a result, certain employees had improper or unnecessary access to *eMM*. Specifically, our review of active *eMM* users at one State agency disclosed that 26 of the 101 users were no longer employed by the agency but retained system access. In addition, our review of system access as of April 2019 disclosed that 2,017 of the 2,092 Statewide *eMM* users had access to the names of bidders before bids were opened. We could not readily determine whether all of these *eMM* users needed this access. State procurement regulations require bidder names to be confidential before bids are opened.

The State of Maryland *Information Technology Security Manual* requires that agencies must ensure that access to confidential information is strictly controlled and audited and that it supports the concept of least privilege. The *Manual* also requires agencies to monitor the security controls over their information systems at least annually to ensure that the access is strictly controlled and restricted to appropriate personnel.

- OPL did not obtain independent control assessment reviews of the *eMM* system vendor to ensure the processing integrity of the system and the security over vendor bids was maintained. For example, the American Institute of Certified Public Accountants has issued guidance for various reviews of service organizations which includes an independent review of controls for which the resultant independent auditor's report is referred to as a System and Organization Controls (SOC) review. There are several types of SOC reviews, with varying scopes and levels of review and auditor testing. A SOC 2 Type 2 review includes a review of controls placed in operation and tests of operating effectiveness for the period under review. This review would provide OPL with assurance as to the propriety of the design and operation of

critical controls, including those related to the operability of the system and the safeguarding of the confidential bids.

In response to our request for the reviews for calendar years 2015 through 2018, the *eMM* vendor provided OPL with a SOC 2 Type 1 report for calendar year 2018. However, this review only covered one year and was limited in scope in that it did not test the operating effectiveness of the *eMM* vendor's system security nor provide assurance that the *eMM* vendor's system security, availability, processing integrity, data confidentiality, and privacy was adequate.

Recommendation 6

We recommend that OPL

- a. periodically review *eMM* system access and remove any unnecessary or improper access including those noted above;**
- b. require the *eMM* vendor to obtain annual control assessment reviews, such as SOC 2 Type 2 reviews, to ensure the operability of the system and that critical data is properly safeguarded; and**
- c. review the control assessment reports to ensure the *eMM* vendor takes appropriate action to all recommendations.**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Department of General Services (DGS) – Office of Procurement and Logistics (OPL) for the period beginning October 28, 2015 and ending October 15, 2018. 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 OPL's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included procurement of commodities and maintenance, construction, and architectural services, *eMaryland Marketplace (eMM)*, OPL's use of the State's Financial Management Information System for performing Statewide procurement functions, Intergovernmental Cooperative Purchasing Agreements, and preferred procurement providers. We also determined the status of five of the seven findings contained in our preceding audit report. The remaining two findings will be followed up in our audit of DGS – Office of the Secretary.

Our audit did not include certain support services provided to OPL by DGS – Office of the Secretary. These support services (such as payroll processing) are included within the scope of our audit of the DGS – Office of the Secretary.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of OPL'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). These 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.

In addition, we extracted data from *eMM* for the purpose of assessing user access. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

OPL'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 OPL'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.

The response from DGS, on behalf of OPL, 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 DGS regarding the results of our review of its response.

APPENDIX

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor



Ellington E. Churchill, Jr.
Secretary

MARYLAND DEPARTMENT OF GENERAL SERVICES OFFICE OF THE SECRETARY

December 3, 2019

Gregory A. Hook, CPA
Office of Legislative Audits
Department of Legislative Services
301 W. Preston Street, Rm. 1202
Baltimore, Maryland 21201

Dear Mr. Hook:

Enclosed is the Department of General Service's (DGS) response to the draft audit report on the DGS – Office of Procurement and Logistics' audit covering the period from October 28, 2015 through October 15, 2018. Per your request, DGS has provided both electronic and hard copies of the response on the form provided by your office.

If you have any questions or concerns regarding the DGS response, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ellington E. Churchill, Jr.", written in dark ink.

Ellington E. Churchill, Jr.
Secretary

Enclosures

cc: Nelson E. Reichart, Deputy Secretary, DGS
Robert E. Gleason, Chief Procurement Officer, Office of State Procurement
Michael F. Haifley, Deputy Chief Procurement Officer, Office of State Procurement
Eric T. Lomboy, Chief Administrative Officer, Office of State Procurement



**Department of General Services
Office of Procurement and Logistics**

Agency Response Form

State Agency Procurement Monitoring

Finding 1

The Office of Procurement and Logistics (OPL) did not adequately monitor certain State agency procurements that were specifically subject to its oversight.

We recommend that OPL

- a. monitor agency procurements by conducting audits of delegated procurements in accordance with State regulations and its procedures (repeat), and**
- b. ensure that the audits are sufficiently comprehensive and that workpapers properly support the related conclusions.**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	During the audit period, in response to the 2016 audit finding, DGS undertook the reconstitution of a program to conduct compliance reviews at agencies to whom certain procurement authority was delegated for commodities and facilities maintenance contracts. DGS continues its efforts to implement all changes required under the procurement modernization effort under HB1021, and organizational structure, policies and processes are designed to address this item.		
Recommendation 1a	Agree	Estimated Completion Date:	12/31/2020
Please provide details of corrective action or explain disagreement.	As part of the continuing procurement modernization effort, DGS-OSP is implementing new Account Executive positions to routinely monitor agencies for compliance with all requirements.		
Recommendation 1b	Agree	Estimated Completion Date:	12/31/2020
Please provide details of corrective action or explain disagreement.	DGS –OSP will ensure that procurement officers placed in the Account Executive positions will be properly trained, supervised and their work performed in accordance with established processes.		

**Department of General Services
Office of Procurement and Logistics**

Agency Response Form

Statewide Procurements

Finding 2
OPL did not publish contract awards totaling \$37 million on *eMaryland Marketplace*, as required.

We recommend that OPL comply with State procurement laws and regulations by publishing contract awards on *eMM* within 30 days of the contract award (repeat).

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	As DGS continues its efforts to implement all the changes required under the procurement modernization effort made possible under HB1021, the organizational structure, policies and processes will be designed and implemented to make certain that DGS is addressing the items noted in this audit.		
Recommendation 2	Agree	Estimated Completion Date:	7/1/2021
Please provide details of corrective action or explain disagreement.	DGS-OSP makes every effort to comply with all requirements to publish awards on the State's e-procurement system. Implementation of the new eMaryland Marketplace Advantage ("eMMA") will help all stakeholders monitor compliance. The estimated completion date reflects time needed to implement system functionality and policies, and conduct training to begin our own procurement reviews as noted in Finding 1.		

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Finding 3

OPL did not always provide prices for products available from Intergovernmental Cooperative Purchasing Agreements to State agencies.

We recommend that OPL either independently publish contract prices or refer agencies to pricing information from the agency that procured the ICPA for items available from ICPAs for use by State agencies (repeat).

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	<p>DGS works to ensure that all ICPAs in scope to DGS, as the control agency, meet applicable laws and regulations. However, not all contracts are set up as a list of items that we acquire at a stated price. Some contracts are established to provide the states participating in the ICPA to receive a negotiated discount off of the standard pricing of the items offered by the company entering into the contract. Some ICPAs have such a long list of items available that the list is not included on the BPO due to the cumbersome nature of entering large quantities of data into the State's legacy Financial Management Information System, but is made available to the procurement officers throughout the State via DGS' website.</p> <p>As DGS continues efforts to implement all changes required under the HB 1021 procurement modernization effort, the organizational structure, policies and processes will be designed and implemented so that items noted in this audit are addressed.</p>		
Recommendation 3	Agree	Estimated Completion Date:	Immediate
Please provide details of corrective action or explain disagreement.	DGS agrees to continue referring agencies to the lead states on the ICPAs for pricing information when appropriate.		

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Monitoring of Providers with Procurement Preferences

Finding 4

OPL did not establish comprehensive procedures for determining the fair market prices of goods and services available from MCE. Furthermore, OPL did not publish fair market prices of items available for purchase from MCE and BISM, as required.

We recommend that OPL

- a. establish comprehensive procedures to independently determine and publish the fair market prices of MCE's goods and services (repeat), and ensure documented adherence to those procedures; and**
- b. publish or verify the fair market prices of BISM's goods and services as determined by the Pricing and Selection Committee for BISM and EWP (repeat).**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	There were some recent changes to law where BISM is now under the Pricing and Selection Committee (PSC) along with MD Works (the current EWP), and a great deal of the ownership of the pricing analysis is now bourn by the PSC. Additionally, DGS has submitted a legislative proposal to clearly delineate the roles and responsibilities it has in regards to the pricing set by MCE. As DGS is now the central procurement authority based on HB 1021, it seeks to remove itself as a pricing authority.		
Recommendation 4a	Disagree	Estimated Completion Date:	12/31/2020
Please provide details of corrective action or explain disagreement.	Legislation has been proposed to remove DGS as a pricing authority over MCE, resolving the need for this recommendation. If legislative means is not successful, then DGS will seek to convene a working group to discuss the feasibility of undertaking OLA recommendation.		

Auditor's Comment: OPL disagrees with the recommendation that it should establish comprehensive procedures to independently determine and publish fair market prices of MCE's goods and services since legislation has been proposed to remove DGS as the pricing authority over MCE. Nevertheless, DGS has agreed to convene a working group to discuss the feasibility of undertaking this recommendation if the legislation is not successful.

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Recommendation 4b	Disagree	Estimated Completion Date:	12/31/2020
Please provide details of corrective action or explain disagreement.	This requirement is not expressed under current law and DGS believes the recommendation is cumbersome to implement. Therefore, OLA's recommendation will be submitted to the Procurement Improvement Council (PIC) in 2020 to discuss various aspects and challenges of implementation, and review the PIC's recommendations to proceed.		

Auditor's Comment: OPL disagrees that the requirement to publish or verify the fair market prices of BISM's goods and services, which are to be charged to State agencies, is not expressed under current law. While State law does not address the BISM pricing, State regulations do require the Pricing and Selection Committee for BISM and EWP to send DGS any changes to the pricing which DGS shall make available to purchasing agents in the State. Therefore, it is OLA's position that OPL should either make the prices available as stipulated in the regulations, or verify the prices published on the BISM website to ensure consistency with the approved prices.

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Finding 5

OPL did not adequately monitor the coordinating entity for EWP to ensure that it met its responsibilities under the law.

We recommend that OPL

- a. monitor the CE to ensure that it is providing the goods and services required by State law and the MOU (repeat), and**
- b. specify in sufficient detail how the CE's responsibilities should be carried out (repeat).**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	As DGS continues its efforts to implement all the changes required under the procurement modernization effort made possible under HB1021, the organizational structure, policies and processes will be designed and implemented to ensure DGS addresses items noted in this audit.		
Recommendation 5a	Agree	Estimated Completion Date:	6/30/21
Please provide details of corrective action or explain disagreement.	The MOU between DGS and the CE is being modified from its current form to intentionally alleviate concerns raised in the OLA discussion notes, and is to be executed before 12/31/2019. As part of the organizational restructuring of DGS-OSP, as stated in the Administrative Work Plan submitted Oct 1, 2018, Account Executives will assist to monitor compliance as will a potential Internal Auditor with items such as the MOU.		
Recommendation 5b	Disagree	Estimated Completion Date:	6/30/20
Please provide details of corrective action or explain disagreement.	DGS-OSP lacks experience in the area of identifying, recruiting and onboarding companies that employ populations in the purview of the EWP. DGS will direct the CE to form a work group comprised of the relevant interested parties to discuss implementing the OLA recommendation and provide a report to DGS on how they are to accomplish this.		

Auditor's Comment: OPL disagrees with recommendation that it should specify in sufficient detail how the CE's responsibilities should be carried out since OPL lacks experience in identifying, recruiting, and onboarding companies that employ populations in the purview of the EWP. While OPL's response indicates that it will direct the CE to form a work group to discuss implementing the recommendation, we believe that since OPL is required to designate a CE to identify potential contracts for State procurement,

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establish procedures for the selection of preferred providers, provide training and assistance to participating providers, and monitor EWP preferred providers, it is reasonable to expect OPL to independently specify how those responsibilities should be carried out.

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eMaryland Marketplace

Finding 6
OPL did not periodically review system access to *eMM* and did not require periodic reviews of the *eMM* vendor to ensure the safeguarding and availability of the system.

We recommend that OPL

- a. periodically review *eMM* system access and remove any unnecessary or improper access including those noted above;**
- b. require the *eMM* vendor to obtain annual control assessment reviews, such as SOC 2 Type 2 reviews, to ensure the operability of the system and that critical data is properly safeguarded; and**
- c. review the control assessment reports to ensure the *eMM* vendor takes appropriate action to all recommendations.**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	As DGS continues its efforts to implement all the changes required under the procurement modernization effort made possible under HB1021, the organizational structure, policies and processes will be designed and implemented to make certain that DGS is addressing the items noted in this audit.		
Recommendation 6a	Agree	Estimated Completion Date:	12/31/2020
Please provide details of corrective action or explain disagreement.	Agencies who use the NEW eMMA will have select administrative access to remove employees no longer with their agency, or who no longer require access to the system. DGS-OSP intends to implement policy requiring those agencies to be responsible for the accuracy of their roster of employees having access to the system.		
Recommendation 6b	Agree	Estimated Completion Date:	Immediate
Please provide details of corrective action or explain disagreement.	The SOC 2 requirement is included in the State's current RFP template, and therefore is applicable to any new IT-related contract. The contract covering the eMMA system currently being implemented does contain the SOC 2 requirement.		
Recommendation 6c	Agree	Estimated Completion Date:	12/31/2020
Please provide details of corrective action or explain disagreement.	DGS-OSP will work with the technical experts at DOIT to ensure that when a security report, such as a SOC 2, is received, that we are able to understand the contents of the report and formulate a plan to ensure the vendor remedies any issues or concerns highlighted in the report.		

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