



**Department of Legislative Services
Office of Legislative Audits**

**Department of Transportation
Maryland Transit Administration (MTA)
Interagency Agreements with
Towson University**

Special Review

Report dated February 3, 2015



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Overview

We conducted a review of an allegation received through our fraud hotline related to possible violations of State budget and procurement laws and regulations involving certain interagency agreements between MTA and Towson University (TU).

TU's Division of Economic and Community Outreach (DECO)* serves as a conduit through which the University can collaborate with businesses, non-profit organizations, government agencies, and community members to provide research and technical services that create solutions addressing issues its clients are facing.

Interagency agreements are used by State agencies to obtain services from State institutions of higher education and are exempt from State procurement laws, including the requirements for competitive procurement, publication of solicitations and awards, and Board of Public Works' approval.

* DECO was renamed the Division of Innovation and Applied Research on December 1, 2012.



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Overview (continued)

Our review was limited to 10 interagency agreements between MTA and DECO for FYs 2010 through 2013. (See Table below.) Related payments under 8 of these agreements totaled \$10.6 million, primarily from the Transportation Trust Fund. There were other agreements that were not subject to this review.

**MTA Interagency Agreements with DECO
(Expenditures by Fiscal Year)**

<u>Description</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>Total</u>
1 Employment Services	\$668,466	\$1,044,147	\$1,619,451	\$2,961,172	\$6,293,236
2 Master Training	\$260,795	\$389,758	\$639,669	\$1,178,712	\$2,468,934
3 First Responder Training	\$ -	\$ -	\$727,058	\$351,037	\$1,078,096
4 Racial Acceptance Training	\$124,500	\$70,500	\$37,419	\$16,500	\$248,919
5 Homeland Security Training	\$194,080	\$24,640	\$2,400	\$ -	\$221,120
6 Bus Operator Mentor Training	\$ -	\$ -	\$ -	\$211,400	\$211,400
7 Microsoft Training	\$22,000	\$61,000	\$ -	\$ -	\$83,000
8 Management & Leadership Training	\$ -	\$ -	\$ -	\$32,500	\$32,500
9 Railroad Worker Protection Training	\$ -	\$ -	\$ -	\$ -	\$ -
10 Strategic Business Plan Training	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$1,269,841	\$1,590,045	\$3,025,998	\$4,751,321	\$10,637,205

Source: MTA Records



Overview (continued)

Under one agreement for employment services DECO was to initially provide MTA with personnel for various training services, although the scope was later expanded beyond training to include a variety of employee services. The number of personnel included in the agreements increased from 11 individuals in 2010 to 57 individuals in 2013.

Payments were based on a fixed price for each individual with an unspecified amount going to DECO for administration of the contract. This agreement was subsequently cancelled after we brought our concerns to the attention of MDOT management.

The other nine agreements were to provide course development and delivery of various training to MTA personnel, with payments generally based on a fixed price per course for development and additional fees for each class delivered, and miscellaneous materials.



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Key Issues

Our review resulted in five findings related to the usage, cost, documentation, and monitoring of the interagency agreements and related expenditures.

- MTA circumvented State procurement regulations that require competitive bidding and allowed MTA to augment its staff beyond its budgetary positions by using these agreements.
- MTA did not maintain adequate records of the agreements, paid DECO invoices without adequate support, and could not document the receipt of certain deliverables.
- One MTA employee had unilateral control over the agreements, including creating, approving and modifying the agreements. Certain payments were questionable, including a \$200,000 payment to a firm owned by the employee's spouse.

MTA referred certain of these matters to the State Ethics Commission prior to the start of our review. After we notified MDOT management of our findings, MDOT referred certain matters to the Criminal Division of the Office of Attorney General.



Lack of Controls Over the Agreements

- MTA lacked adequate controls over interagency agreements with DECO. The use of these agreements circumvented State procurement regulations which require a competitive procurement process and allowed MTA to augment its staff beyond its budgetary positions (**Finding 1**).

Unilateral Control by One MTA Employee

One MTA employee had excessive control over the interagency agreements with DECO. Specifically, this employee had unilateral authority to create and modify the interagency agreements, amendments, and related task orders and was the sole MTA signatory on virtually all of the agreements, related amendments, and task orders during FYs 2010, 2011, and 2012. MTA subsequently determined that this employee had violated certain State ethics laws and was terminated in November 2012.



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Lack of Controls Over the Agreements (cont.)

Circumvention of State Procurement Regulations

- MTA directed DECO to use private vendors for some or all of the services under 3 course development and delivery agreements. For example, DECO subcontracted with private vendors whose services accounted for \$983,000 (91%) of the \$1.1 million MTA paid to DECO under one agreement.
 - For the employment services agreement:
 - MTA identified the individuals who were to be hired by DECO under the employment services agreement. MTA was responsible for the daily monitoring of these individuals, including assigning tasks and monitoring performance. DECO had no apparent involvement, but received a 10% fee.
 - Our review of 25 individuals who were included in an agreement during FYs 2010 through 2013 disclosed that 19 had been previously employed by MTA or a contractor that performed services for MTA, including 15 who had duties under the agreement that were similar to those performed when employed by or for MTA.
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Questionable Costs and Payment Terms

- Amounts paid for certain services under the agreements appeared excessive or varied among similar services (**Finding 2**). For example, the employment services agreement originally provided for an annual fee of \$212,509 for one individual which exceeded the amount the individual was previously paid while working for an MTA contractor (\$132,000). After 6 months, MTA reduced the fee. The agreement provided for MTA to pay a fee for one individual that was \$8,900 more than the fee paid for another person with the same job description.
 - MTA's monitoring of DECO invoices was inadequate (**Finding 3**).
 - For the employment services agreement, MTA paid DECO prior to the end of each quarter and did not verify that the related services were actually provided.
 - Amounts billed on certain invoices under the course development and delivery agreements were inconsistent with or not authorized in the related task orders and were not always supported.
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Questionable Deliverables

- MTA could not document that certain deliverables were received (**Finding 4**).
 - MTA could not provide sufficient documentation to support the work of five individuals included in the employment services agreement during FY 2012 for which MTA paid DECO \$571,340. No documentation was available to support the work performed by two of these individuals for which MTA paid a total of \$154,815. For the remaining 3, only minimal documentation was provided which did not adequately substantiate the receipt of the deliverables.
 - MTA could only provide minimal documentation of deliverables for 10 invoices from the FY 2012 course development and delivery agreements for which it paid \$412,708. For example, no documentation was available (including a list of attendees or training materials) for charges on 6 of the invoices totaling \$90,962. There was a lack of assurance that the courses were held or if the use of the agreements was cost-effective.
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Inadequate Follow-up on Questionable Activity

- MTA did not take adequate follow-up action when questionable activities were identified regarding the MTA employee administering the agreements (Finding 5).
 - MTA officials were notified that DECO subcontracted the work on one agreement to a company owned by the MTA employee's spouse and that the employee added certain questionable individuals to another agreement. MTA conducted two focused reviews that corroborated these allegations, identified other control deficiencies, and referred the matter to the State Ethics Commission, which concluded that the employee had violated the State Ethics Law.
 - MTA did not conduct a thorough review of the agreements and related expenditures, nor did it refer this matter to the Office of the Attorney General's Criminal Division, until after we discussed our concerns with MDOT management.



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Inadequate Follow-up on Questionable Activity (cont.)

The lack of a thorough review of the agreements and related expenditures by MTA is significant because our review of the agreement which involved the employee's spouse, disclosed numerous questionable transactions. For example:

- The agreement was modified several times increasing the cost from \$500,000 to \$1.1 million without any documentation or additional services to justify the increase, and the related services all fell within the scope of the initial agreement.
- There was little documentation for contractor and subcontractor charges totaling \$968,100 (including approximately \$200,000 for work performed by the company owned by the MTA employee's spouse) and the reliability of some of that documentation appeared questionable (price quotes from several contractors were not printed on letterhead and were in the same font type and size).



Conclusion

MTA should

- ensure that agreements, amendments, and task orders are subject to independent supervisory review and approval, and discontinue using interagency agreements to circumvent budgetary restrictions and procurement regulations;
- ensure adequate documentation is obtained to enable verification of amounts invoiced, that amounts paid are reasonable and consistent with the agreements, and maintain adequate records of the agreements and all related supporting documents and payments;
- verify deliverables are received prior to making related payments;
- review the aforementioned transactions and, in consultation with the Attorney General, recover amounts determined to be improperly billed; and
- in the future, notify the appropriate entities in accordance with the Governor's Executive Order.