

Audit Report

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

December 2016



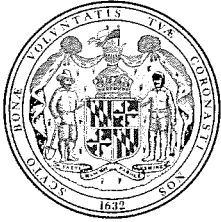
OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

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December 7, 2016

Senator Guy J. Guzzone, Co-Chair, Joint Audit Committee
Delegate C. William Frick, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Department of General Services (DGS) – Office of Procurement and Logistics (OPL) for the period beginning August 20, 2012 and ending October 27, 2015. OPL responsibilities include managing the centralized procurement of certain goods and services for State agencies; overseeing the State's Automated Fuel Management Program; and monitoring providers with procurement preferences.

Our audit disclosed that OPL did not adequately review and follow up on the results of certain monitoring procedures which had been established to ensure the propriety of transactions incurred and the quality of fuel provided under the State's \$305 million fuel contract. For example, OPL did not verify the accuracy of the vendor's quarterly fuel usage reconciliations, which were used to adjust the billings for fuel purchased by State agencies. In addition, there was a lack of adequate follow-up by OPL when fuel at State dispensing locations failed 40 of 291 quality control tests conducted by the Comptroller of Maryland during our audit period.

Our audit also disclosed a lack of adequate oversight for certain procurements delegated by OPL to State agencies, including procurements of commodities and maintenance services, which totaled \$210 million and \$38 million, respectively, during our audit period. Furthermore, we noted deficiencies relating to OPL's Statewide procurements, including the failure to publish all contract awards on *eMaryland Marketplace* as required, and to ensure the collection of all administrative fees that OPL is permitted by law to assess vendors on certain Statewide contracts.

Finally, we found that OPL did not properly monitor providers that, by State law, receive procurement preferences for State agency purchases. For example, OPL did not establish comprehensive procedures for determining the fair market prices of goods and services available from Maryland Correctional Enterprises.

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

Respectfully submitted,

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

Thomas J. Barnickel III, CPA
Legislative Auditor

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Background Information

Agency Responsibilities

The Department of General Services (DGS) – Office of Procurement and Logistics (OPL) manages the centralized procurement of certain goods and services for State agencies, including the procurement of contracts for the design and construction of certain State facilities. OPL also oversees the State's Automated Fuel Management Program and printing and graphic services; manages State records, inventories, and surplus property; and administers DGS' minority business enterprise program. According to the State's records, during fiscal year 2015, the value of Statewide procurements awarded by OPL totaled approximately \$191 million, and OPL's operating expenditures totaled approximately \$7 million.

Pricing and Selection Committee for Blind Industries and Services of Maryland and the Employment Works Program

State laws and regulations provide that State aided or controlled entities give procurement preferences to benefit disadvantaged individuals or representative organizations when goods and services provided by those individuals and organizations can be supplied at prices that do not exceed prevailing market prices. These organizations include Blind Industries and Services of Maryland (BISM) and community service providers through the Employment Works Program (EWP). State law stipulates certain requirements for the pricing of goods and services provided by BISM and EWP at fair market value as determined by various established pricing committees, of which the Secretary of DGS is a member.

In our preceding audit report dated November 8, 2013, we commented upon certain deficiencies relating to the determination of fair market pricing for goods and services offered by BISM and through the EWP. Finding 8 in that report stated, in part, that, although OPL advised us that BISM's prices reflected fair market value as determined by the BISM pricing committee, we noted that the committee only reviewed prices for new items and for price changes submitted by BISM, and that these reviews were not independent since they were based on data provided by BISM. Finding 9 in the report also stated that OPL could not document that the separate pricing and selection committee for EWP had determined the fair market prices for goods and services provided by the EWP providers. In our report, we recommended that OPL, in conjunction with the BISM pricing committee, determine the fair market prices of BISM's goods and

services, and ensure that the EWP pricing and selection committee determines the fair market value of EWP goods and services.

During our current audit of OPL, we noted similar deficiencies relating to the determination of fair market prices for goods and services offered by BISM and through the EWP. This same condition with respect to BISM goods and services was also included in our recent performance audit of certain operational aspects of BISM for which we issued a report dated February 1, 2016.

Chapter 415, Laws of Maryland 2015, effective July 1, 2015, merged the functions of the BISM pricing committee and the EWP pricing and selection committee to establish the Pricing and Selection Committee for Blind Industries and Services of Maryland and the Employment Works Program. By law, the five members of the Committee are the Secretaries of the Departments of Transportation; General Services; Public Safety and Correctional Services; and Labor, Licensing, and Regulation; as well as the Assistant Secretary for Vocational Rehabilitation within the Department of Education. Similar to its predecessor committees, the law requires the Committee to set BISM's prices for its goods and services to reflect fair market prices, and to determine the fair market prices for goods and services offered through the EWP. DGS continues to be responsible for making pricing data determined by the Committee available to State agencies.

The law has established the Committee's membership; however, it did not assign specific responsibility for Committee duties to the Secretary of DGS or to any particular member or State agency. In this regard, we were advised by legal counsel to the Maryland General Assembly that legislative action would likely be required to affix responsibility for ensuring that the Committee's duties were carried out.

While in the past, DGS traditionally provided some support and accepted some responsibility for the previous Committee's work, we have been advised that due to the lack of a legal mandate, DGS will not commit staff resources to provide administrative support for the current Committee. Accordingly, we have not repeated the aforementioned conditions regarding the determination of fair market pricing in this OPL audit report.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the 13 findings contained in our preceding audit report dated November 8, 2013. We determined that OPL

satisfactorily addressed 10 of these findings. The remaining 3 findings are repeated in this report.

Findings and Recommendations

Statewide Fuel Contract

Background

The Department of General Services (DGS) – Office of Procurement and Logistics (OPL) procured a new Statewide fuel contract effective August 1, 2012. The total value of the five-year contract was estimated at \$305 million (fuel costs of \$304 million, and equipment installation and maintenance of \$1 million), and the contract contained a provision for two additional two-year extensions. Based on State records, during the period between August 1, 2012 and June 30, 2016, payments to the fuel vendor totaled approximately \$221.6 million.

Motor fuel supplied under the contract was purchased either in bulk or on a consignment basis. There are 101 fuel dispensing locations for consigned fuel throughout the State and, according to the fuel vendor's records, there were approximately 14,000 active fuel dispensing cards issued to State agencies, as of April 2016, to distribute to their employees. State agencies are invoiced directly by the vendor for their consigned fuel usage, based on data generated by the pumps' fuel card reading equipment, and are responsible for verifying the propriety of and paying these invoices. OPL is responsible for monitoring the vendor's overall contract performance to ensure, for example, that quality fuel is being delivered.

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.

Analysis

OPL did not verify the accuracy of periodic fuel usage reconciliations performed by the vendor, sufficiently address failed fuel quality tests, and ensure State agencies were reviewing monthly fuel variance reports.

Fuel Usage Reconciliations

OPL did not verify the accuracy of quarterly reconciliations of fuel usage performed by the fuel vendor for consigned fuel which were used to adjust vendor billings, nor did it take steps to identify and correct the causes for the variances identified. Furthermore, since the new fuel management equipment was installed by the vendor in 2012, OPL had not taken action to ensure the State's fuel pumps were accurately calibrated. Proper calibration of the fuel pumps is critical for ensuring the accuracy of the vendor's billings; questions regarding the accuracy

of the pump calibration heighten the importance of the reconciliation process for identifying variances.

OPL did not verify to supporting documentation, such as records of fuel deliveries and inventories on hand, the accuracy of the fuel reconciliations performed by the vendor which resulted in additional billings of \$490,000 and credits of \$143,000 during the period from August 2012 through December 2015. Furthermore, OPL did not have on file relevant supporting documentation from the fuel vendor for periods prior to September 2015. Consequently, there was a lack of assurance as to the propriety of the additional billings and credits issued to State agencies for variances noted, and that the cause of any variance was identified and corrected.

The contract requires the vendor to periodically reconcile the quantity of fuel dispensed by each pump, based on records of fuel deliveries and fuel inventories, with the quantity of fuel dispensed according to the fuel pump card readers on which vendor billings to State agencies are based. Variances may be caused, for example, by equipment malfunction, such as improper calibration, or theft. The contract stipulates that the vendor bill the State agency responsible for the pump location when fuel usage, according to the aforementioned records, is greater than the amount dispensed according to the card reader and issue a credit if the reconciliation shows less usage than the card reader.

Fuel Quality Tests

OPL was notified that fuel at various State fuel dispensing locations failed 40 of 291 quality control tests conducted by the Comptroller of Maryland (COM) during our audit period, but did not take appropriate action. While we were advised that the COM took action to stop fuel from being dispensed at these locations, OPL did not ensure that additional testing was performed to determine if deficient fuel from the same source had been delivered to other untested locations, and did not determine and address the cause of the failed tests. Fuel may fail testing for various reasons, including contamination with other fuel types during delivery, and could lead to damage in State vehicles.

The fuel contract requires the vendor to provide high quality fuel, allows the State to conduct independent testing of the fuel, and states that if substandard fuel product is identified, deliveries will be suspended and all damages incurred by the State will be charged to the contractor. This is also grounds for contract termination.

Fuel Variance Reports

OPL did not conduct monthly audits of selected State agency reviews of monthly fuel variance reports generated by the automated fuel management system, as

required by OPL's internal written procedures. The reports include, for example, instances of multiple fueling with the same fuel dispensing card on the same day, and off-hour fueling which could indicate a possible misuse of fuel. The DGS *Handbook for Fleet Managers* requires that State agencies review available reports that list potential improper fuel usage.

The monthly fuel variance report issued in July 2015, for example, identified more than 30,000 instances of potentially improper fueling. Instances identified on the reports do not necessarily represent improper fueling. Certain State agencies require vehicle use at irregular hours, such as at night and on holidays, and may require refueling at those hours. The reports must be reviewed in conjunction with explanations from applicable agencies to determine if there were instances of improper fuel usage.

Recommendation 1

We recommend that OPL

- a. verify the accuracy and validity of periodic fuel reconciliation reports by reviewing supporting documentation, including evidence of fuel deliveries and fuel inventories, and ensure that these verifications are documented and retained;**
- b. ensure that the cause of variances noted through the reconciliation process are determined and corrected;**
- c. ensure that fuel pumps at the State's dispensing locations are properly calibrated;**
- d. ensure that the vendor takes all necessary corrective action when a State fuel dispensing location fails a fuel quality control test, including ensuring that other State locations do not have deficient fuel from the same source, and determining and correcting the cause of the failed test; and**
- e. comply with its written procedures to audit monthly reports for select agencies with potentially improper fueling and fuel usage and ensure that the audits are documented and retained.**

State Agency Procurement Monitoring

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.

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. OPL also lacked procedures to ensure that it had approved printing service contracts procured by State agencies as required. Requirements for delegated procurements are established in State procurement regulations and DGS' *Commodity Procurement Operations Manual For Using Agencies*; however, these guidance documents had not been reviewed to correct language that was incorrect, unclear, or out-of-date.

Delegated Commodity and Maintenance Procurements

OPL did not conduct audits of State agencies' delegated procurement activity to ensure that procurements were properly bid and awarded and that appropriate documentation was maintained. As permitted by State procurement regulations, OPL has delegated its authority for commodity purchases costing up to \$25,000 and maintenance service contracts costing up to \$50,000 to individual State agencies. According to OPL's records, State agencies made 59,802 procurements for commodities and maintenance services totaling approximately \$210 million and \$38 million, respectively, during our audit period (generally excluding purchases made with the State's corporate purchasing card).

The regulations permit OPL to audit State agency delegated commodity procurements to ensure, for example, that a proper competitive procurement was conducted, a deficiency often cited in our fiscal compliance audits of State agencies. Although OPL had established written procedures to conduct audits of delegated commodity procurements on a two-year rotating basis, as of January 2016, no audits had been conducted since fiscal year 2011. A similar condition was commented upon in our preceding audit report.

Neither the regulations nor OPL's audit procedures specifically address delegated maintenance services procurements. However, State procurement regulations

grant OPL the authority to establish policies regarding all delegated procurements, and we believe those policies should include conducting audits of delegated maintenance service procurements.

Printing Service Procurements

OPL did not have an effective means for ensuring that State agencies submitted printing service contracts for its approval as required by State law. OPL had previously designated, through a memorandum of understanding, Maryland Correctional Enterprises (MCE) as a preferred provider for printing services, thereby allowing agencies to procure printing services from MCE without OPL approval. However, the memorandum of understanding with MCE expired in December 2014, and had not been renewed as of the time of our audit. MCE reported that its sales of printing services to State agencies from January 2015 to June 2015 totaled approximately \$1.7 million, none of which had been approved by OPL. Furthermore, we tested eight purchases of printing services made by agencies during fiscal years 2014 through 2016, totaling \$693,016, that were not made through MCE. Our test disclosed four of these purchases totaling \$246,567 that were not approved by OPL.

We were advised by Department of Information Technology (DoIT) personnel that approval paths could be created for these purchases to require them to be reviewed and approved by OPL before being finalized. The use of approval paths would help to ensure that procurements of printing services were subject to OPL review and approval.

Procurement Regulations and Manual

OPL had not conducted a review of State procurement regulations and the DGS *Commodity Procurement Operations Manual For Using Agencies (Manual)* to identify any corrections, clarifications, or other changes that may be necessary. Our review disclosed instances in which the guidance in the documents was out-of-date. For example, State procurement regulations currently state that agencies may make commodity purchases of up to \$10,000 without OPL approval; however, this total was raised to \$25,000 in May 2005 via a memorandum that was issued to all procurement officers.

We also noted that the procurement regulations do not clearly convey the requirement for agencies to purchase commodities through Statewide contracts. While the *Manual* states that agencies are required to use Statewide contracts unless there is a valid justification for not doing so, the regulations state that agencies are required to use “scheduled purchases,” which is an uncommon form of contracting. These documents provide direction and guidance to State agencies

regarding their procurement activity, and therefore should reflect only current and accurate information.

OPL management advised us that its ability to properly oversee agency procurements has been negatively impacted by significant and prolonged staffing shortages.

Recommendation 2

We recommend that OPL

- a. supplement its audit procedures to include delegated maintenance service procurements, and conduct audits of delegated procurements in accordance with its procedures, ensuring the results of the audits are documented (repeat);**
- b. implement procedures to ensure that State agencies submit printing service procurements for its approval as required, including working with DoIT personnel to establish appropriate approval path requirements; and**
- c. take immediate steps to revise State procurement regulations and the *DGS Manual* to identify and resolve passages that need correction, clarification, or other changes, and periodically review this guidance for accuracy.**

Statewide Procurements

Finding 3

OPL did not publish contract awards totaling \$5.9 million on *eMaryland Marketplace* as required.

Analysis

OPL did not always publish contract awards on *eMaryland Marketplace* (*eMM*) as required by State laws and regulations. *eMM* is an Internet-based, interactive procurement system managed by OPL.

We tested 20 commodity and facilities maintenance contract awards made by OPL during the period from December 2012 through September 2015, totaling approximately \$30.5 million. As of February 2016, 10 of these contract awards, totaling approximately \$5.9 million, had not been published on *eMM* as required. Individually, these 10 contracts, which were awarded during the period from April 2013 through September 2015, ranged in value between \$42,000 and \$2 million. Furthermore, 5 of the 10 awards, valued at \$4.4 million, were sole source contracts.

State laws and regulations generally provide that *eMM* is to be used by State agencies, counties, municipalities, public institutions of higher education, public schools, and other entities to publish solicitations for goods and services greater than \$15,000 and to publish awards greater than \$25,000 within 30 days of the award.

Recommendation 3

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

Finding 4

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 they are paying the agreed-upon prices. ICPAs are procured by one or more federal, state, or local government agency and consolidate the procurement of specified goods and services on behalf of multiple users. State law allows agencies to participate in ICPAs that are entered into 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 order (BPO) for State agencies to use when making purchases, but certain BPOs did not provide pricing for the available item. We reviewed OPL's participation in seven ICPAs for which the BPOs had an estimated value of approximately \$21.8 million and found that two ICPA contracts, totaling \$7.8 million, did not include contract pricing on the BPO. Agencies purchasing items from ICPAs when the related BPO did not include contract pricing would likely contact the vendors 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 these two contractors totaled approximately \$6.1 million during calendar year 2015.

OPL surveys State agencies to determine their needs and then researches group purchasing organization websites to see if OPL can use an existing ICPA to obtain needed items. OPL enters into a contract with the ICPA vendor and issues one or more BPOs for State agencies to use to access the items available through

the ICPA. OPL participated in ICPA contracts with 21 entities during the period from August 20, 2012 through October 27, 2015, from which OPL issued 35 BPOs with a total estimated value of \$67.6 million, for use by State agencies.

Recommendation 4

We recommend that OPL independently publish contract prices for items available from ICPAs for use by State agencies.

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.

Analysis

OPL did not ensure that it received all administrative fees due from vendors under Statewide contracts. Although vendors were required to periodically remit the fees collected to OPL, along with supporting sales reports, OPL did not always follow up when the required fees and reports were not submitted, and did not verify sales data reported by vendors. Based on our review of selected contracts for which fees were assessed, we identified approximately \$222,000 in fees that were not remitted to OPL and which had not been pursued by OPL.

As allowed by State law, OPL assessed specified administrative fees on certain Statewide contracts, which were typically based on the vendor's sales revenue or volume. For example, OPL assessed an administrative fee on the State's fuel vendor equal to one percent of vendor sales and was also permitted to charge an additional administrative fee because the contract was electronically procured through DGS using *eMaryland Marketplace*. Vendors included the fees in the prices of goods and services purchased by State agencies and were required to periodically remit the fees collected to OPL, along with supporting sales reports.

Our review of nine contracts for which administrative fees had been assessed disclosed that required fees and/or sales reports were not remitted by seven vendors, and OPL did not follow up with the vendors. Specifically, one vendor submitted sales reports for the period from May 2014 through December 2015, but had not remitted the corresponding fees, which totaled approximately \$219,000. Six other vendors did not submit required sales reports and fees for the period from October 2012 through February 2016. The State's records disclosed that sales associated with these six vendors totaled approximately \$282,000 for this period. Based on our calculation, related fees of approximately \$2,800 were

due for the period. Furthermore, our review of the fuel contract disclosed that OPL did not verify the accuracy of the detailed reports of fuel sales provided by the vendor by comparing them to supporting documentation (such as invoices paid). According to State records, OPL collected approximately \$618,000 in administrative fees from the fuel vendor in fiscal year 2015.

Recommendation 5

We recommend that OPL

- a. ensure that all required sales reports and related contract fees due are received,**
- b. verify reported sales to supporting documentation, and**
- c. pursue for collection the aforementioned unremitted fees.**

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 laws and 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 6

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's procedures for determining fair market prices of items available for sale from MCE were not comprehensive, and OPL did not always comply with the procedures it did have in place. Furthermore, OPL did not publish fair market prices of items available from MCE and BISM as required.

According to the State's accounting records, during fiscal year 2015, State agencies spent approximately \$22.5 million on purchases from MCE and \$4.6 million on purchases from BISM.

- OPL's procedures for reviewing MCE prices required a verification of the fair market prices of MCE products submitted for OPL's approval, but only included new items and existing items for which MCE was requesting a price change. The procedures did not otherwise require a review of catalog pricing for existing items. OPL had not independently determined the fair market prices of all MCE products since 2003.
- OPL frequently 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 the period from August 2013 through October 2015, MCE submitted new pricing requests showing comparative retail pricing for 72 separate items. OPL did not review and verify the comparative prices or otherwise determine fair market prices for 68 of these items.
- 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.

State laws and 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 Blind Industries and Services of Maryland and the Employment Works Program.

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

Recommendation 6

We recommend that OPL

- a. establish and adhere to comprehensive procedures to independently determine and publish the fair market prices of all of MCE's goods and services (repeat), and**
- b. publish the fair market prices of BISM's goods and services as determined by the Pricing and Selection Committee for Blind Industries and Services of Maryland and the Employment Works Program (repeat).**

Finding 7

OPL did not adequately monitor the coordinating entity for EWP to ensure that it met its responsibilities under the law and that fees it collected from EWP preferred providers were reasonable.

Analysis

OPL did not monitor the coordinating entity (CE) for the EWP to ensure it was appropriately fulfilling its duties under State law, did not adequately describe those duties in the Memorandum of Understanding (MOU) with the CE, and did not ensure the compensation fees the CE charged were reasonable. 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 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 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.
- OPL could not document that the compensation fees collected by the CE from EWP preferred providers were reasonable based on program costs. The CE generally collected a 3.2 percent fee from the providers on all sales under

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.

EWP contracts and such fees were ultimately passed on to State agencies that procured goods and services from the providers. However, the MOU did not address the appropriate level of compensation for the CE based on program costs. While OPL could not readily provide us with the amount paid to the CE, our review of the CE's most recent publicly available federal tax return disclosed that the CE collected approximately \$1.1 million in EWP fees during calendar year 2014. Based on the aforementioned 3.2 percent fee, we estimate that associated sales under EWP contracts totaled approximately \$34.4 million.

Similar conditions regarding the lack of monitoring of the CE and the lack of documentation that fees collected by the CE were reasonable were commented upon in our preceding audit report.

Recommendation 7

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. establish the responsibilities of the CE and specify the compensation fee that may be charged by the CE after determining the appropriate level of compensation based on program costs.**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Department of General Services - Office of Procurement and Logistics (OPL) for the period beginning August 20, 2012 and ending October 27, 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 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 commodity and maintenance procurement, the Statewide fuel management system, eMaryland Marketplace, OPL's use of the State's Financial Management Information System for performing Statewide procurement functions, equipment, and State property oversight. We also determined the status of the findings included in our preceding audit report.

Our audit did not include certain support services provided to OPL by the Department's Office of the Secretary. These support services (such as payroll processing) are included within the scope of our audit of the Department of General Services - Office of the Secretary. Our audit also did not include activities related to the operation and maintenance of Government House. Although the Department receives an appropriation for these activities and OPL is responsible for maintaining the equipment inventory for the Department, these activities are audited as part of the Executive Department - Governor.

To accomplish our 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). 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 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. Other less significant findings were communicated to OPL that did not warrant inclusion in this report.

The response from the Department of General Services, 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 the Department 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 6, 2016

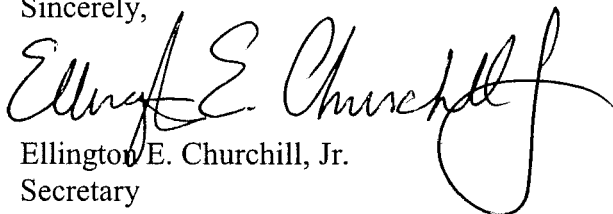
Mr. Thomas J. Barnickel III, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street, Room 1202
Baltimore, MD 21201

Dear Mr. Barnickel;

Enclosed are the Maryland Department of General Services (DGS) responses to the Audit Report on the Department of General Services – Office of Procurement and Logistics for the period beginning August 20, 2012 and ending October 27, 2015. As required, a copy of our responses will be sent electronically to your office.

If you should have any questions or require additional information, please contact Lauri A. McGuire, Assistant Director of Procurement and Logistics, Department of General Services at 410.767.7522 or via e-mail at lauri.mcguire@maryland.gov.

Sincerely,


Ellington E. Churchill, Jr.
Secretary

Cc: Nelson Reichart, Deputy Secretary, DGS
Lauri A. McGuire, Assistant Secretary of Procurement and Logistics, DGS



Department of General Services
Office of Procurement and Logistics
Audit Report
August 20, 2012 to October 27, 2015

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.

- a. DGS concurs with the finding to be implemented by June 2017. DGS will verify the accuracy and validity of periodic fuel reconciliation reports and ensure that these verifications are documented and retained.
- b. DGS concurs with the finding to be implemented by June 2017. DGS will ensure that the variances noted through the reconciliation process are determined and corrected.
- c. DGS concurs with the finding. DGS will coordinate with the Department of Agriculture and State Agencies to ensure that fuel pumps at the State's dispensing locations will be included for calibration testing by June 2017.
- d. DGS concurs with the finding to be implemented by June 2017. DGS will work with the vendor and the Comptroller's Office to ensure that all necessary corrective actions are taken when a State fueling location fails a fuel quality test, follow-up to ensure that other State locations do not have deficient fuel from the same source, determining and correcting the cause of the failed test.
- e. DGS concurs with the finding to be implemented by June 2017. DGS will comply with its written procedures to audit monthly reports for select agencies with potentially improper fueling and fuel usage. DGS will also ensure that the audits are documented and retained.

Finding 2: OPL did not adequately monitor certain State agency procurements that were specifically subject to its oversight and did not review the update State procurement regulations and the DGS manual for commodity procurements as needed.

- a. DGS concurs with the finding. Although DGS is still under staffed, DGS will continue to review workload demands on current staff and develop a schedule to conduct audits of delegated procurement activity that pose a greater risk of agency noncompliance. An additional unit will be required to comply with this mandate to review the procurement activity of all delegated purchases on a routine basis and will seek approval for these staff position.
- b. DGS concurs with the finding. DGS will coordinate with DoIT and MDOT and explore the most appropriate way to establish approval path requirements for State agencies and DGS to follow for approval of printing services.

- c. DGS concurs with the finding. DGS is in the process of revising all of its Standard Operating Procedures (SOPs) and will update its Procedures Manuals accordingly.

Finding 3: OPL did not publish contract awards totaling \$5.9 million on eMaryland Marketplace (eMM) as required.

DGS concurs with the finding to be implemented on or before 2/1/2017. Under DGS policy, Procurement Officers are currently publishing contract awards within the 30 day time period. DGS procurement staff has been directed to ensure the proper notification of awards occurs within 30 days. Additional training will be implemented and specific eMM reports will be developed to monitor and ensure staff is complying as required.

Finding 4: OPL did not always provide prices for products available from Intergovernmental Cooperative Purchasing Agreements (ICPA) to State agencies.

DGS concurs with the finding. DGS is currently modifying its Terms and Conditions to require and enforce that ICPA vendors supply within 30 days of award a contract e-catalog for use on eMaryland Marketplace.

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.

- a. DGS concurs with the finding. Standard Operating Procedures are currently being revised to ensure all administrative fees are collected in a timely fashion.
- b. DGS concurs with the finding. DGS will reconcile all available supporting documentation against reports for accuracy.
- c. DGS concurs with the finding. DGS will track and monitor required vendor sales reports. State of Maryland Central Collection Unit has been engaged to collect and enforce against aged receivables.

Finding 6: 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.

- a. DGS concurs with the finding. DGS has met with MCE and developed comprehensive procedures that will ensure that DGS independently determines and publishes the fair market prices of MCE's goods and services. All processes will be implemented by June 2017.
- b. DGS concurs with this finding. DGS has required a Master Price List to be published on eMarylandMarket place by June 2017.

Finding 7: OPL did not adequately monitor the coordinating entity (CE) for EWP to ensure that it met its responsibilities under the law and that fees it collected from EWP preferred providers were reasonable.

- a. DGS concurs with the finding. DGS will monitor the CE and develop additional reporting requirements to ensure that the CE is providing the goods and services as required by State law and the MOU.
- b. DGS concurs with the finding. DGS will work with the Office of Attorney General and Employment Works Program (EWP) to modify the MOU to be more specific and fully address the specific responsibilities of the parties. DGS is developing Standard Operating Procedures (SOPs) for determining whether the fees collected by the coordinating entity (CE) from EWP are reasonable and appropriate.

AUDIT TEAM

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