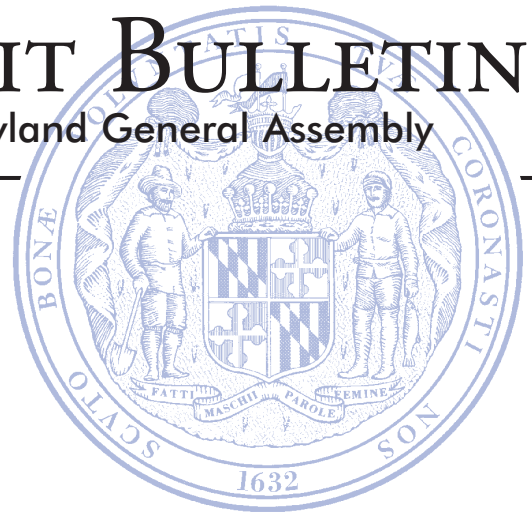


# LEGISLATIVE AUDIT BULLETIN

Publication for Members of the Maryland General Assembly



## MARYLAND DEPARTMENT OF TRANSPORTATION (MDOT) – STATE HIGHWAY ADMINISTRATION (SHA)

SHA needs to improve procedures for architectural and engineering (A&E) contracts to ensure compliance with certain provisions of State procurement regulations and MDOT guidelines. During our audit period, expenditures on A&E contracts totaled approximately \$431 million.

### *Procedures for administering A&E contracts need to improve.*

SHA had not documented the basis for the maximum values of contracts submitted to the Board of Public Works (BPW) as stipulated by MDOT guidance. This lack of documentation was important since SHA also used available funding

authorizations from certain A&E contracts to cover over-expenditures in other contracts, without obtaining BPW approval for contract modifications as required by State procurement regulations. As of August 2012, SHA had preliminarily identified 105 contracts with work performed outside the scope of the contracts, totaling \$21.7 million, which will require retroactive BPW approval. (SHA subsequently advised that the required BPW approval was obtained.)

SHA extended contract expiration dates without obtaining BPW approval, enabling it to retain unspent authorizations on contracts that otherwise would have expired. In May 2012, SHA received retroactive approval from BPW for contract extensions related to 391 A&E contracts, totaling \$783 million. SHA also needs to increase the number of audits performed to verify labor costs paid by SHA to A&E contractors.

The audit also disclosed contract procurement and monitoring issues related to the Maryland SafeZones Program, the automated speed monitoring program for highway work zones.

SHA did not ensure that performance benchmarks were established, including the reliability and readability of photographed violations, as provided in the Maryland SafeZones pilot program contract to evaluate contractor performance. During the pilot program, 56 percent of the violations photographed were deemed unacceptable due to reliability and readability issues.

The current contract for operating the automated speed monitoring system was executed even though the successful contractor's proposal, which was the only proposal received, did not comply with certain SHA requirements. SHA also lacked adequate assurance that the contractor was meeting a key performance requirement pertaining to citations issued.

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## Maryland Department of Transportation – Maryland Transit Administration (MTA)

MTA should verify the propriety of amounts paid under certain contracts and should identify and recover any improper payments.

MTA made payments for employee and retiree healthcare coverage totaling approximately \$112.7 million for FYs 2009 through 2011 without ensuring the amounts billed were proper. For example, MTA did not conduct reviews of healthcare claims paid by its contractor to ensure that claims were paid only for eligible services provided for covered members. MTA also did not verify the contractor's administrative fee charges.

MTA did not ensure that direct labor and overhead rates paid under a \$10 million engineering contract were consistent with the contract terms.

MTA should establish sufficient procedures and controls over the Mobility Paratransit Program (MPP) and the Reduced Fare Program (RFP) for disabled and elderly riders.

*MTA needs to verify healthcare claims payments.*

Formal guidance had not been established to assist MTA staff in determining MPP and RFP applicant eligibility, and such decisions were not subject to independent review to

ensure that only eligible individuals received services. MTA also did not adequately review invoice amounts, such as charges for drivers' time and vehicle fuel, pertaining to a three-year \$57 million MPP vendor contract.

MTA did not attempt to obtain allowable refunds of federal and State excise taxes paid for fuel used in State vehicles by the three MPP vendors, which totaled \$744,000 during FY 2011.

## Maryland Department of Transportation – Maryland Aviation Administration (MAA)

MAA needs to establish better monitoring controls over A&E contracts. MAA needs to maintain records identifying disbursement details and the unspent balances for individual A&E contracts, which is critical to ensure that contracts are not overspent and to provide a means to determine when additional contracts may need to be procured. During our audit period, MAA spent \$38.3 million on A&E contracts.

For certain A&E contracts, MAA did not provide the BPW with complete and accurate information when it requested contract approvals. For example, MAA presented a \$10 million contract to the BPW in March 2011 for its approval, but did not disclose to the BPW that an existing contract to the same vendor for the same services had an unspent balance of \$7.2 million. Although such disclosure is not required, this information would assist the BPW in its decision making.

MAA needs to ensure that overhead rates billed by A&E firms are proper. The firms did not submit required independent overhead rate audits to MAA to substantiate the rates billed by the firms and paid by MAA.

*Better A&E contract monitoring controls should be established.*

MAA did not review and approve subcontractors hired by A&E firms that were not included in the original contracts as required. Comprehensive task orders, which are a means to ensure both parties have a common understanding of the work to be performed, were not established for a certain type of A&E services.

## Department of Information Technology (DoIT) and Selected State Agencies – Information System Data Security – Performance Audit

OLA conducted a performance audit to evaluate State law and DoIT policies governing information system security as compared to industry and government best practices and to assess State agency compliance with certain aspects of the DoIT's *Information Security Policy*.

The audit identified opportunities for DoIT to improve oversight and enhance its policies and guidance for ensuring the confidentiality, integrity, and availability of information contained on State computer systems. A breach of confidential information, such as personal identifiable information (PII), could harm citizens and businesses of the State and could cause the State to incur significant expenses for remediation.

Unlike other states, State law governing certain protections for PII, such as social security numbers, did not apply to PII held by State government agencies. Furthermore, certain notification requirements involving data breaches established in State law for private businesses were not addressed in the DoIT *Policy*.

Although State law assigned DoIT the responsibility for enforcing information security, DoIT had delegated this responsibility to the individual State agencies that are subject to its policies. Furthermore, DoIT had not established a formal oversight process to determine if State agencies had developed appropriate strategies to protect information systems and data.

Of the five State agencies' security policies and practices reviewed for compliance with seven specific requirements of the DoIT *Policy*, none had implemented all program components required by DoIT. For example, only one agency had determined and documented security levels for its information systems, which is integral for assessing risks associated with data confidentiality, integrity, and availability.

### *Opportunities exist to improve data security for State computer systems.*

Agencies also did not fully implement risk management processes, which require an entity to identify, assess, and reduce security risks to acceptable levels. State agencies also need to take steps to better protect data stored on portable devices such as laptops. Two of the agencies that authorized the use of portable devices for the storage and access of PII (such as personal health data) did not take certain steps to adequately protect the data.

### **Department of Human Resources (DHR) – Local Department Operations (LDO)**

LDO is a separate budgetary unit of DHR and consists of the funds appropriated for the various activities administered by the State's 24 local departments of social services (LDSS), which during FY 2011 had expenditures totaling approximately \$2 billion. To avoid duplication of work, OLA relied on the audit work performed by the DHR Office of the Inspector General (OIG), which formed the primary basis for the findings in this LDO audit report.

The audit findings indicate that LDSSs continued to have a significant number of deficiencies. The OIG's audit reports for the 24 LDSSs prepared during our audit period (ending June 30, 2011) collectively included 373 audit findings, including 77 deemed by the OIG as repeat findings.

Although the OIG has an established corrective action monitoring process, more active oversight by DHR management could help ensure that audit findings are addressed by the LDSSs and repeat audit findings are avoided.

The audit findings related primarily to the programs administered by the Social Services Administration (SSA) and the Family Investment Administration (FIA), as well as to budgetary and fiscal operations, and information systems controls. Almost half of the findings (48 percent) related to issues involving the foster care (SSA) and public assistance (FIA) programs.

For example, certain foster care cases could not be located and documentation was missing from others cases showing that required services were provided. Initial federal funding eligibility for some children in foster care was not determined timely.

*More oversight is needed to ensure LDSS audit findings are addressed.*

Control weaknesses were identified over electronic benefit cards used by recipients to access their public assistance funds, including Temporary Cash Assistance. Certain quality control activities, which are designed to help ensure the propriety of assistance payments and reduce program errors, were not performed as required.

Controls and procedures were also found to be inadequate for certain LDSS financial activities, including bank accounts used to pay certain administrative and program-related expenditures. Furthermore, accountability over certain corporate purchasing card transactions and prepaid gift cards was not established or documented.

### **Financial Management Practices Audit Report – Baltimore City Public School System (BCPSS)**

BCPSS needs to improve internal controls, adopt more cost-effective processes, and enhance policy direction in certain areas of its financial operations. Based on State records, BCPSS ranks fourth in student enrollment among Maryland's 24 public school systems and during FY 2011, expenditures were \$1.45 billion, of which 70 percent related to salaries, wages, and benefits.

Internal controls need to be improved to help ensure the propriety of payroll and other operating expenditures. Certain personnel and payroll transactions were not subject to supervisory review and a number of overpayments and questionable payments to employees were identified. For example, because of an incorrect overtime rate in the automated payroll system, overpayments totaling approximately \$206,000 were made over a two-year period to certain employees.

Critical procurement and disbursement duties were not properly segregated to prevent erroneous or improper payments, and BCPSS did not adequately verify that contractors providing certain services had properly completed work before making payment.

BCPSS had not established formal debt collection procedures and as of May 31, 2011, accounts receivable over 60 days past due totaled \$3.5 million, and included amounts due from former employees. BCPSS also had not implemented adequate security measures to protect its critical files and network.

The cost effectiveness of certain operations could be improved. BCPSS had not developed a long-range facilities master plan to address facility conditions, capacity, space utilization, and future needs. BCPSS had not established a comprehensive program to control energy costs and did not perform a cost-benefit analysis prior to releasing energy service companies from contract guarantees for achieving energy savings.

Automated bus routing software was not used to evaluate student transportation efficiency and ridership was significantly lower than bus capacity. Regarding bus contractor payments, BCPSS could not document how rates paid for school bus routes were developed, and invoices from contractors were not adequately reviewed resulting in questionable and improper payments.

BCPSS could not locate lease agreements for 14 charter schools operating in BCPSS buildings and 2 charter schools were not charged rent in FY 2010, which we valued at approximately \$580,000.

BCPSS's personnel policies for approximately 300 nonunion employees were not comprehensive, and a policy governing the use of BCPSS facilities by outside organizations was not established.

## **Findings from Selected Audit Reports**

**Department of Business and Economic Development (DBED)** – DBED needs to obtain adequate supporting documentation for project and start-up costs prior to certifying applicants for the One Maryland Tax Credit. DBED did not require applicants to document all of the related project costs, which serve as the basis for the tax credit amounts. OLA identified eight applicants, certified for tax credits totaling \$34 million, for which documentation of their costs was lacking. Four of the eight applicants had taken tax credits totaling \$11.7 million from CYs 2006 to 2009.

**Department of Labor, Licensing and Regulation – Division of Unemployment Insurance (DUI)** – DUI needs to improve its use of computer matching techniques to detect improper payments. DUI did not use available employee wage information as part of its periodic matching to identify claimants potentially receiving improper benefits. DUI also did not perform matches to identify benefits improperly paid to claimants after death or while incarcerated.

**Department of Budget and Management (DBM) – Office of the Secretary and Other Units** – DBM needs to improve efforts to collect debts owed to the State, that were submitted by various State agencies to DBM's Central Collection Unit (CCU). As of June 30, 2011, outstanding debts totaled \$1.6 billion. CCU did not always pursue wage garnishments when eligible wages were identified through quarterly computer matches of its records with State wage data. CCU's July 2011 wage match identified 40,600 debtors with account balances totaling \$111.4 million and wages earned of \$344.8 million during the first quarter of calendar year 2011 that could potentially have been subject to garnishment. OLA's test of 15 debtors, with accounts totaling \$536,400, identified 14 with earned wages during CY 2010 totaling \$414,000 who could have been subject to wage garnishment, but were not.

**Review of Local Government Audit Reports (Article 19) – Annual Desk Review** – OLA's review of 187 local government FY 2011 financial statements and related independent auditor reports found that certain local governments need to ensure they are in compliance with State laws and to maintain positive general fund balances. For example, the financial statements of 16 local governments contained disclosures that cash deposits were not adequately collateralized, or otherwise insured, as required by State law. In addition, unreserved general fund deficit balances were noted for two local governments as of June 30, 2011. A third local government had not filed its FY 2011 financial statements at the time of the OLA review, but its reports since FY 2008 have identified General Fund deficit balances, and the auditor's report for its FY 2010 financial statements included an uncertainty about the local government's ability to continue as a going concern.



# LEGISLATIVE AUDIT BULLETIN

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The Legislative Audit Bulletin is periodically issued by the Office of Legislative Audits (OLA) to inform the General Assembly of audits or reviews completed and to provide a summary of significant findings from selected reports. Unless specifically noted, the agencies generally agreed with the audit findings and recommendations, although some follow-up of the report response may have been necessary. Copies of reports can be obtained from the web site or by contacting either OLA or the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401, 410-946-5400 - 301-970-5400. For further details about any report or finding, please contact OLA at the listed numbers. We welcome your comments and suggestions.

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