

Special Review

Department of Health and Mental Hygiene Spring Grove Hospital Center

Questionable Transactions Involving One Contractor Totaled \$167,106

The Maintenance Department Directed Projects Totaling \$232,000 to Contractors
That Employed a Certain Individual

Projects Were Awarded to Several Contractors That Had Personal Relationships
with Center Employees

November 2008



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Bruce A. Myers, CPA
Legislative Auditor

November 10, 2008

Senator Verna L. Jones, Co-Chair, Joint Audit Committee
Delegate Steven J. DeBoy, Sr., Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We conducted a review of allegations received through our fraud hotline regarding possible improper procurement activities related to certain maintenance projects by the Spring Grove Hospital Center (SGHC), a unit of the Department of Health and Mental Hygiene. Our review of SGHC records indicated that the allegations related primarily to maintenance projects that were individually less than \$25,000. It is significant to note that projects under that amount do not require outside control agency approvals (such as the Department of General Services).

Our review disclosed questionable transactions totaling \$167,106 involving one contractor. In this regard, the bidding processes for numerous projects awarded to this contractor appeared to have been significantly compromised. Specifically, competing bids were purportedly submitted by two or three contractors but all of the bids were, in actuality, faxed to SGHC by the winning low bidder. In other instances, faxed bid documents had been tampered with to eliminate references as to where the bids had originated. In addition, projects were often awarded to this contractor without using a competitive bid process, or as sole source procurements for repairs that appeared to be routine in nature. SGHC was also unable to substantiate that certain equipment items purchased from this contractor had been received.

We also noted that SGHC directed maintenance projects totaling \$232,000 to three other contractors during the period when these contractors employed a certain individual. We were advised by management personnel of SGHC's Maintenance Department that the projects were directed to the contractors that employed this individual because the management personnel liked the work performed by the individual. The projects were generally awarded without using a competitive bid process and involved other questionable procurement practices (such as awarding projects as sole source procurements without any written justification).

Our review also disclosed that personal relationships existed between certain SGHC employees and contractors. These relationships and related transactions may have violated State Ethics Laws and a related Governor's Executive Order.

Based on the aforementioned conditions, we referred these matters to the Office of the Attorney General's Criminal Division.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

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Scope, Objective, and Methodology

We conducted a review of allegations received through our fraud hotline related to the Spring Grove Hospital Center (SGHC), a unit of the Department of Health and Mental Hygiene (DHMH). The allegations related to possible improper activities regarding the procurement of certain maintenance projects. Our review of SGHC records indicated that the aforementioned allegations related primarily to maintenance projects that were individually less than \$25,000. It is significant to note that projects under that amount do not require outside control agency approvals (such as the Department of General Services).

The purpose of our review was to determine whether the allegations we received were valid. This review was performed in accordance with State Government Article, Section 2-1220 of the Annotated Code of Maryland.

Our review consisted of tests, analyses, observations, and discussions with SGHC personnel and others as we deemed necessary to achieve our objectives. Our review did not constitute an audit conducted in accordance with generally accepted government auditing standards. Had we conducted an audit in accordance with generally accepted government auditing standards, other matters may have come to our attention that would have been reported. Our review was conducted primarily from April 2008 through July 2008.

DHMH's response, on behalf of SGHC, 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 DHMH regarding the results of our review of its response.

Background Information

Agency Responsibilities

Spring Grove Hospital Center (SGHC), which is located in Catonsville, Maryland, provides a wide range of comprehensive mental health services to residents of Baltimore City, and Baltimore and Harford Counties. The SGHC Maintenance Department has a staff of 47 employees responsible for certain building maintenance activities (such as heating and air conditioning, plumbing and electrical) for SGHC's 99 buildings. According to the State's records, during fiscal year 2008, related salary and fringe benefit expenditures totaled approximately \$2.4 million. Additionally, SGHC expended approximately \$581,000 during fiscal year 2008 for building maintenance equipment, materials and supplies, and contractual services.

Procurement Regulations

State Procurement Regulations were established to help foster competition so that State purchases are made in a cost effective manner. Requirements are more stringent as the dollar amount of the procurement increases. SGHC is required to seek competition to the extent practical for procurements up to \$2,500. The Regulations require that bids be obtained from at least two vendors for procurements between \$2,501 and \$10,000. Sole source procurements must meet certain specified requirements (situations in which there is only one available source for the subject of the contract) and the reasons for any such procurement are to be documented in writing by the agency's procurement officer. The Regulations also require that written and published solicitations be used for all procurements over \$10,000. Furthermore, procurements in excess of \$25,000 require the approval of control agencies (such as the Department of General Services and the Department of Budget and Management).

The intent of State Procurement Regulations is to provide for increased public confidence in public procurement, to ensure the fair and equitable treatment in both fact and appearance of all persons who deal with the State procurement system, and to foster effective broad-based competition.

SGHC Maintenance Department Procurement Procedures

Maintenance Department employees complete a request for purchase form when equipment is needed or when contractors are needed to provide maintenance services. The Department is responsible for conducting the competitive bid

process, including receiving and evaluating the bids, and for ensuring compliance with all aspects of the State Procurement Regulations. The aforementioned form is to include a description of the work to be performed, the cost of the related equipment or services, and the contractor to whom the Department intends to award the project. The forms are generally initially authorized by Maintenance Department management and then forwarded to SGHC management for final approval. Once approved, the form is forwarded to the Accounting Office for preparation of the State purchase order. Equipment items purchased are received either directly by the Maintenance Department or at a central receiving location. Regardless of the location where items are received, receiving reports are prepared to document receipt of the items purchased and are approved by Department personnel. Invoices from contractors are initially received by the Department or the Accounting Office and generally require the approval of Department management personnel prior to payment.

Findings and Recommendations

Questionable Transactions Were Identified Related to One Contractor

Finding 1

Numerous questionable transactions totaling \$167,106 were noted related to one contractor. For example, the Maintenance Department's bidding process for services procured from this contractor appeared to be significantly compromised.

Analysis

We noted numerous questionable transactions totaling \$167,106 related to one contractor. For example, the Maintenance Department's bidding process for items procured from this contractor appeared to be significantly compromised. Payments made by SGHC to the contractor during the period from July 2005 through February 2008 totaled approximately \$200,000. We noted the following questionable transactions:

- The Maintenance Department awarded this contractor 12 projects totaling \$43,658 through a purported competitive bid process for replacement equipment (for example, steam coils). For each of these projects, competitive bids were purportedly received from two or three contractors, that is, the winning contractor and at least one of the two other contractors which were located in Pennsylvania and Massachusetts. Although the bid documents purportedly received from the out-of-state contractors were prepared on letterhead of the respective companies, the bids were submitted to the Maintenance Department via fax by the contractor that was subsequently awarded the projects as the low bidder.
- The Department awarded this same contractor 21 additional projects totaling \$87,548 through a purported competitive bid process for additional replacement equipment. However, we noted that the competing bids for these projects, which appeared to have been submitted directly to the Maintenance Department by fax, were tampered with. Specifically, the top portion of the bid documents, which would have identified the sender of the bids, was destroyed (that is, either torn-off or cut-off). For all 21 projects, the losing bids appeared to have been submitted on the letterhead of the same two out-of-state contractors referred to in the preceding bullet.

- Although bids were on file from at least one of the out-of-state contractors for all 33 of the aforementioned projects, we contacted management personnel at both of the out-of-state contractors who advised us that they only recalled submitting bids for a limited number of projects. Consequently, there is some question as to the legitimacy of the bids purportedly submitted by these contractors for a majority of the projects.
- Based on our review with SGHC personnel, we were unable to substantiate that specific equipment items purchased from this contractor were received. Specifically, for 14 equipment purchases tested totaling \$50,610, made during the period from December 2006 to November 2007, the Department was unable to substantiate that the specific items purchased were received. In summary, 2 items (totaling approximately \$7,000) could not be located at all, 7 items (totaling approximately \$29,000) had model numbers that were different from the items ordered and paid for, and 5 items (totaling approximately \$15,000) lacked detailed information as to the items purchased (such as model numbers) making identification inconclusive.
- The Department awarded the same contractor 7 projects totaling \$18,112 as sole source procurements for repairs that appeared to be routine in nature (for example, steam coil repairs). The Department's written justification for awarding these projects as sole source procurements indicated that no other vendor near Baltimore was able to complete the repairs. However, the Department was unable to document or explain why no other contractor could provide the needed service. In our opinion, the Department's classification of these apparent routine repairs as sole source procurements is highly questionable.
- The Department frequently paid this contractor a premium to have replacement equipment orders expedited. For example, this contractor charged the Department twice the regular purchase price for these items (a 100 percent premium) to have an equipment order delivered by the manufacturer within 48 hours. Our test of \$36,597 in premium payments made to the contractor for 25 replacement equipment purchases disclosed that 13 of these equipment items, with premium payments totaling \$26,777, had not been delivered within the expedited time frame paid for by the Department. However, there was no documentation on file to substantiate that the Department questioned the premium charges or obtained reimbursement when the equipment was not delivered within the required timeframe.

- The Department awarded the same contractor 13 projects totaling \$27,066 (including 4 projects totaling \$9,278 noted in the \$18,112 in sole source procurements noted above) without using a competitive bid process. Rather, contrary to State Procurement Regulations, the Department appeared to have artificially divided the projects so that the individual project costs were below the \$2,500 threshold that would have required the Department to obtain bids from at least 2 vendors. For example, the Department allowed this contractor to submit separate cost estimates for 3 similar projects (repair steam coils) within the same building that were each under \$2,500, and all of which were prepared on the same day.

Based on the above findings, we referred these matters to the Office of the Attorney General – Criminal Division.

Recommendation 1

We recommend that SGHC comply with State Procurement Regulations in the bidding and awarding of all contracts. Specifically, SGHC should obtain written bids (through independent sources) as required, limit the use of sole source procurements to only those instances authorized under the Regulations, and not artificially divide procurements to avoid bid requirements. We also recommend that SGHC obtain reimbursement for the aforementioned \$26,777 in premium overpayments. Moreover, we recommend that SGHC, in conjunction with DHMH – Office of the Inspector General, perform a complete verification of equipment items purchased from this contractor (including model and serial number) to determine if the items purchased from this contractor were received. Finally, we recommend that SGHC consult with the Office of the Attorney General – Criminal Division regarding any further action to be taken.

Work Was Directed to Contractors That Employed a Specific Individual

Finding 2

Projects totaling \$232,000 were frequently directed by the Maintenance Department to three other contractors that employed a certain individual. No competition was sought for these procurements and certain other questionable practices were identified.

Analysis

The Maintenance Department frequently directed certain heating, ventilation, and air conditioning work to three contractors that had employed a specific individual.

The work was generally awarded without any competitive process being considered. We were advised by Department management that the work was directed to the contractors that employed this individual, because the management personnel liked the work performed by the individual. We noted that this individual functioned interchangeably as a technician and/or account representative on projects at SGHC. In addition, we noted a number of other questionable transactions between the Department and these contractors. During the period that these companies employed this individual, the Department awarded projects totaling approximately \$232,000 to these contractors. We noted the following conditions:

- The Department awarded 96 projects (each under \$2,500) totaling \$96,284 to two of the contractors without any indication that a competitive process was considered. Procurement regulations stipulate that, in such circumstances, competition should be sought to the extent practicable.
- The Department awarded six projects totaling \$29,992 to the three contractors as sole source procurements, without any written justification as required. For four of these projects totaling \$12,586, the Department prepared the related request for purchase (RFP) one to four months after the contractor's invoice indicated the work had been completed. Additionally, one other project for \$5,500 was awarded as a sole source procurement, and the Department's justification for not bidding the project was because the contractor "can do the best".
- For four projects (each in excess of \$2,500) completed by two of the contractors totaling \$18,288, the purported competitive bid process used was questionable. Specifically, one of the losing bids for a project in the amount of \$3,617 was submitted to the Maintenance Department via fax by the aforementioned employee who, at the time, worked for a different company that received the project award. This project was awarded for ductwork in a building that was unoccupied. For two other projects totaling \$5,704, the Department's bid evaluation form indicated that the bids were evaluated on June 12, 2007 even though the winning contractor's bids were dated June 26, 2007, two weeks after the bids were purportedly evaluated. For the one remaining project, competitive bids were received from this contractor and one other bidder. After the bids were received, this contractor met with the Department to discuss a modification to the specifications and submitted a revised bid for \$8,967 (an increase of \$2,176) to the Department to account for this modification. The Department awarded the project to this contractor without giving the other bidder an opportunity to submit a revised bid based on the subsequent modification.

- The Department awarded one contractor a project for \$19,419 without preparing a written bid solicitation or publishing the solicitation as required by State Procurement Regulations. In effect, the Department restricted competitive bidding on this project because bids were only solicited from two contractors. The losing bid, in the amount of \$20,768, was submitted to the Department via fax before the winning bid was submitted. Furthermore, the comparability of the two bids received is questionable since a written bid solicitation describing the technical aspects of the project was not prepared.
- The Department awarded one contractor two projects totaling \$11,358 as emergency procurements; however, the Department prepared the respective RFPs more than a month after the contractor's invoice indicated that the work had been completed.
- On January 23, 2008, the Department awarded five projects totaling \$12,349 to one contractor with the explanation that the air conditioning unit was not working in a certain building. However, the invoices submitted by the contractor for these projects, and paid by SGHC, represented that the work was performed more than six months earlier (that is, on five days between May 16, 2007 and July 11, 2007). In addition, the invoices included charges totaling \$8,114 for supplies that had not previously been recorded (on service receipts) as used by the contractor's employee at the time the work was reportedly performed.

Based on the above findings, we referred these matters to the Office of the Attorney General – Criminal Division.

Recommendation 2

We recommend that the Department strictly comply with State Procurement Regulations. We also recommend that SGHC consult with the Office of the Attorney General – Criminal Division regarding any further action to be taken.

Personal Relationships Existed Between Employees and Contractors

Finding 3

Projects were awarded to several contractors that had personal relationships with certain SGHC employees. At a minimum, the awarding of these projects created an appearance of conflicts of interest that may have violated State Ethics Law and a related Governor's Executive Order.

Analysis

SGHC awarded projects to several contractors that had personal relationships with two Maintenance Department employees and a SGHC senior management employee that worked outside of the Maintenance Department. At a minimum, the awarding of these projects created an appearance of a conflict of interest that may have violated State Ethics Law and a related Governor's Executive Order. We noted the following conditions:

Maintenance Department Supervisory Employee

A Maintenance Department supervisory employee and an executive of a certain contractor resided at the same home address at the time projects totaling approximately \$25,000 were awarded to this contractor. The executive of the contractor was also named as the primary beneficiary of this supervisory employee's State pension benefits. We noted that this supervisory employee's initial employment at SGHC was during fiscal year 2007 and that no projects had been awarded by SGHC to this contractor prior to this employee's starting date. Additionally, we noted that, for one project awarded to this contractor in which a competitive bid process was reportedly used, the losing company's bid was printed from the email account of this supervisory employee. We were advised by Department management personnel that this supervisory employee generally had no responsibilities relating to the bidding process. However, the fact that the losing bid was printed from the supervisory employee's email account appears to contradict that representation.

Maintenance Department Senior Management Employee

According to an internal memorandum prepared by a SGHC senior management employee during the hiring process of a Maintenance Department senior management employee (Grade 18), SGHC relied, in part, on a personal reference provided by the president of a plumbing and heating contractor. This Maintenance Department senior management employee was hired during fiscal year 2008. We noted that no projects had been awarded by SGHC to this plumbing and heating contractor prior to the employment of this senior management employee at SGHC. Eight days after being hired, this senior management employee approved

an \$8,800 project that was awarded to this contractor. We noted inconsistencies in the related bid documents. Specifically, documentation indicated that this contractor had submitted its bid three days before the request for purchase (RFP) was approved. In addition, the bid records indicated that this bid and the lone losing bid were evaluated one month before both the RFP was prepared and the winning contractor submitted its bid. The losing bid did not indicate the date of preparation or the date submitted to the Maintenance Department.

Furthermore, we noted that a subordinate of this senior management employee approved a supplemental RFP in the amount of \$2,042. In addition, we noted that less than a month after this senior management employee was hired, a subordinate of this senior management employee approved a no-bid emergency project to this contractor for \$9,700. Furthermore, this senior management employee subsequently approved another no bid emergency project to this contractor for \$3,976. The Maintenance Department ultimately made payments to this contractor totaling approximately \$40,000 during fiscal year 2008. Furthermore, we were advised that, as of July 2008, this senior management employee had not filed a Financial Disclosure Statement for calendar year 2007 with the State Ethics Commission as required by State law.

SGHC Senior Management Employee

A SGHC senior management employee was married to the president of an organization of contractors to which SGHC paid membership and seminar registration fees totaling \$4,450. These fees were paid on behalf of Maintenance Department employees, as well as the senior management employee who was hired during fiscal year 2006. No payments had been made by SGHC to the organization prior to this individual's hiring date. We noted that the senior management employee directly approved payments to the organization totaling \$2,375 during the period from June 13, 2007 to June 25, 2008, and SGHC paid the organization \$1,350 for membership dues and registration fees on behalf of this employee beginning on August 9, 2006. We also noted that during the period from October 18, 2006 to July 23, 2007, this senior management employee authorized SGHC to award three no-bid projects totaling \$6,560 for interior design services, to a firm whose owner served as an associate board member of the aforementioned organization.

In our opinion, the aforementioned relationships and related transactions, at a minimum, create the appearance of conflicts of interest. In addition, the conditions noted may violate certain provisions of State Ethics Law. For example, the State Government Article of the Annotated Code of Maryland provides that an employee may not participate in a matter if a qualifying relative of the employee (such as a spouse) has an interest in the matter and the employee

knows of the interest. Moreover, these conditions may violate several provisions of a February 2007 Governor's Executive Order related to standards of conduct for Executive Branch employees. Specifically, the Executive Order states, in part, that an employee shall act impartially and not give preferential treatment to any private organization or individual. The Order further states that employees shall avoid any actions creating the appearance that they are violating applicable law or the ethical standards.

Based on the above findings, we referred these matters to the Office of the Attorney General – Criminal Division.

Recommendation 3

We recommend that SGHC take appropriate action to ensure compliance with the State Ethics Law and the Governor's Executive Order. We also recommend that SGHC take immediate action to refer the above information to the State Ethics Commission. Moreover, we recommend that SGHC consult with the Office of the Attorney General – Criminal Division regarding any further action to be taken.

Questionable Insurance Claim Submitted to the State Treasurer's Office

Finding 4

SGHC submitted, and was reimbursed for, a questionable insurance claim made to the State Treasurer's Office totaling \$35,022.

Analysis

SGHC submitted a questionable claim for \$35,022 to the State Treasurer's Office (STO) for damages that reportedly occurred on October 27, 2005. According to the claim, a tree fell on a building's chiller (air conditioning) unit during a storm on that date. SGHC subsequently advised the STO that "There is extensive damage to the top fans and sides" of the unit but that "...the extent of the damage cannot be known, without having the unit looked at..." However, we noted that the chiller unit continued to operate for the 16-month period between October 27, 2005 (reported date of insurance loss) and March 3, 2007 (date of unit replacement). In that regard, we noted that, on April 11, 2006 (over five months after the unit had been initially reportedly as extensively damaged), SGHC submitted an Emergency Purchase Report to the Maryland Department of General Services (DGS) for the purpose of making an emergency procurement for

replacement of this unit. SGHC represented to DGS that the chiller was “unrepairable” and that patient safety would be at significant risk because the affected building housed “patients with breathing problems and medical conditions.”

More than a year after damages to the chiller reportedly occurred, internal emails dated January 11, 2007 among SGHC personnel (a senior fiscal management employee and Maintenance Department employees) questioned the rationale for processing this as an emergency procurement since the chiller was operational during the summer of 2006 and would run again during the upcoming summer. In response to this concern, the senior fiscal management employee stated that “We may lose out on funds if maintenance does not follow through with this order in the near future, since the State Treasurer may not reimburse the hospital for the claim since it has not been timely.” The chiller was subsequently replaced on March 3, 2007, and we were advised by STO management that the cost of the replacement equipment was reimbursed to SGHC by the STO in May 2007 from the State Insurance Trust Fund.

The Fund is a self-insurance program designed to cover State agencies and employees for claims related to property, motor vehicles, torts, and officer and employee liability. A unit of State government can submit a claim for reimbursement from the Fund for an occurrence of loss, damage, or liability, subject to certain exclusions.

Recommendation 4

We recommend that, in the future, SGHC only submit insurance claims to the State Treasurer’s Office for losses that are actually incurred.

APPENDIX



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

November 7, 2008

Mr. Bruce Myers, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Myers:

Thank you for your letter regarding the draft special review of the Department of Health and Mental Hygiene – Spring Grove Hospital Center. Enclosed you will find the Department's response and plan of correction that addresses the audit recommendations.

I will work with the appropriate Directors of Administration, Program Directors, and Deputy Secretary to promptly address the audit exceptions. In addition, the Office of the Inspector General's Division of Internal Audits will follow-up on the recommendations to ensure compliance.

If you have any questions or require additional information, please do not hesitate to contact me at 410-767-4639 or Thomas Russell, Inspector General, or my staff at 410-767-5862.

Sincerely,

John M. Colmers
Secretary

Enclosure

cc: James Johnson, Deputy Secretary for Operations
Rex M. Cowdry, M.D., Executive Director, Maryland Health Care Commission
Robert Murray, Executive Director, Health Services Cost Review Commission
Grace S. Zaczek, Executive Director, Maryland Community Health Resources
Ellwood L. Hall, Assistant Inspector General, Audits, DHMH
Thomas Russell, Inspector General, DHMH

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Special Review

**Department of Health and Mental Hygiene
Spring Grove Hospital Center**

Department's Response

October 2008

Background Information Regarding Spring Grove Hospital Center

Spring Grove Hospital Center is Maryland's oldest and largest State Hospital. It operates 425 beds and serves over 1,000 patients a year. It is also the least expensive of the State hospitals to operate, per occupied bed.

Although certain similarities exist between Spring Grove and seemingly similar State facilities, Spring Grove is unique in a number of important ways:

- The Spring Grove Hospital Center includes a very large number of buildings. There are over ninety buildings (90) that are distributed fairly evenly throughout its entire 190-acre campus.
- The large majority of the buildings at Spring Grove are occupied and in use. The Spring Grove Maintenance Department is responsible for the care and maintenance of each of the buildings. The Spring Grove Maintenance Department's responsibilities include the care and maintenance of the various buildings that are occupied by tenants, well as the buildings that are occupied as part of the Center's hospital operations.
- The Spring Grove campus is the host site of a number of other State agencies. These include the Mental Hygiene Administration, the Department's Office of Healthcare Quality, the Dental Board, the Alcohol and Drug Abuse Administration, the Occupational Therapy Board, and the Maryland Psychiatric Research Center. The campus also includes over 25 on-campus housing units for employees and two dormitories for students in professional training. While other State campuses have tenants, it is believed that the Spring Grove Hospital is unique and distinguished by the fact that so many of its buildings are occupied by tenants, and by the fact that its Maintenance Department is responsible for the maintenance of each of the tenant buildings.

- The Spring Grove campus is historic, and as such has a number of older buildings. Its oldest building, which dates to 1853, is still in use. The large, four-story Bland Bryant Building, which is the site of the Office of Health Care Quality, was built in 1930. Most of the occupied patient care buildings date to the 1950's and 1960's. While the older buildings were well-constructed, their aging infrastructure poses special challenges for the Hospital's Maintenance Department.
- A comprehensive Energy Management Project is currently underway at Spring Grove. By 2010 this project will replace the aging heating plants throughout the campus and result in substantially improved energy efficiency and, it is hoped, improved reliability.

Findings and Recommendations

Questionable Transactions Were Identified Related to One Contractor

Finding 1

Numerous questionable transactions totaling \$167,106 were noted related to one contractor. For example, the Maintenance Department's bidding process for services procured from this contractor appeared to be significantly compromised.

Legislative Auditor's Recommendation

We recommend that SGHC comply with State Procurement Regulations in the bidding and awarding of all contracts. Specifically, the SGHC should obtain written bids (through independent sources) as required, limit the use of sole source procurements to only those instances authorized under the Regulations, and not artificially divide procurements to avoid bidding requirements. We also recommend that SGHC obtain reimbursement for the aforementioned \$26,777 in premium overpayments. Moreover, we recommend that the SGHC, in conjunction with DHMH-Office of the Inspector General, perform a complete verification of equipment items purchased from this contractor (including model and serial number) to determine if the items purchased from this contractor were received. Finally, we recommend that SGHC, consult with the Office of the Attorney General-Criminal Division, regarding any further action to be taken. Based on the above findings, we referred these matters to the Office of the Attorney General – Criminal Division.

Department's Response

The Department agrees that it must comply with State Procurement Regulations in the bidding and awarding of all contracts and that SGHC should obtain written bids (through independent sources) as required, limit the use of sole source procurements to only those instances authorized under the Regulations, and not artificially divide procurements to avoid bidding requirements.

Transactions cited by the OLA include: procurement of HVAC custom components, urgent and/or emergency maintenance purchase orders, sole source procurements, and

payment for expedited delivery associated with the HVAC work. While there is no excuse for not following the prescriptive elements of COMAR, there are reasonable explanations for what was done within a hospital environment. We do not expect these to fully satisfy the finding but we also will comment on what has been instituted to prevent future deficiencies.

Numerous and varied coil replacements have been necessary at SGHC for years due to the aging physical plant. Indeed, there is a large project underway ("NORESCO") that will modernize the occupied buildings on the campus. In the interim, the maintenance objective has been to minimize outlay for spare parts yet provide adequate heating and cooling for patients and staff. When there is an equipment failure, the decision is made concerning the severity of the incident. If it is something that is currently, or may shortly affect the health or safety of patients or staff the needed item(s) and/or service(s) is/are obtained as quickly as possible. Vendors who are known to have trained and experienced staff are initially called and when a job is satisfactorily completed there has been a tendency to rely on one competent vendor. While this was the case with most of the transactions cited, it is in violation of COMAR and has been stopped. Current procedures require a documented attempt to obtain at least two bids in any emergency situation and to place the item and/or service on eMaryland Marketplace if of an urgent need and time permits. In addition, as of September 22, 2008 all procurements over \$500 are reviewed by the Director of the Office of Procurement and Support Services ("OPASS"). He also has an additional check on all SGHC procurements by independently obtaining purchase order records from the FMIS system as well as credit card reports. This level of oversight will continue until the Director of Office of Procurement and Support Services is fully satisfied that all local staff have been properly instructed and are performing fully within the requirements of the procurement rules.

As to sole source procurements, there have been many vendors at SGHC over the years that either claim or provide proof that they have unique capabilities and have been deemed to be "sole source" vendors. Incomplete documentation resulted in the OLA finding that some of them were not justified. The procedure today is that any vendor that SGHC believes is a sole source must be documented by SGHC and approved by the Director of the Office of Procurement and Support Services. We believe that this will eliminate any improperly classified sole source vendor.

To avoid the repetitious use of a vendor without a contract in place, the Director of Facility Management has prepared a Request for Proposal (RFP) for a standing contract for all planned and emergency HVAC work. This RFP has been approved for placement on eMaryland Marketplace and the Department anticipates having the contract awarded by the end of November 2008. Pricing will be locked in for one year. Since it is being overseen by the Office of Procurement and Support Services, it will be capped at \$50,000.

There were allegations of bids not being received properly. To address the possibility of any future procurement violation, a "bid committee", independent of the Maintenance Department, has been established by the Finance Department at Spring Grove. This committee receives, opens, and reviews all bids. The bid committee also awards the bid. The committee consists of the Chief Financial Officer (CFO), an Administrative Specialist II, and an Agency Buyer I. The bids are received via eMaryland Marketplace or in a sealed envelop and are date-stamped. Bids may be received by fax or email in certain circumstances. The Spring Grove Chief Financial Officer ensures the integrity of the bids received, the process by which they are opened, and the selection that is made. In addition, the Department's Office of Procurement and Support Services approves the selected vendor/contractor in each instance.

The Department does not agree that it intended to artificially divide projects so as to be below the \$2,500 threshold. There have been instances when, without warning, multiple pieces of similar or identical equipment within the same building break in fairly rapid succession. This may occur on the same day but at different times. For example, this has been known to occur when the strain caused when a malfunction in one piece of HVAC equipment causes additional demands on the systems that are still operating. This, in turn, may cause one or more of these other systems to fail after a fairly brief period of time while we are already in the process of making repairs. Thus, the issuance of two, or more, purchase orders under \$2500 which add up to be over the \$2500 threshold. Our policy now is to have a vendor stop work and we seek bids if there is likelihood that we will exceed \$2500 on the initial work. We also want it known that procurements over \$2,500 are now being routinely secured through eMaryland Marketplace.

The Department does not find that it is owed a refund for the \$26,777 that it paid in premium payments or that it overpaid for premium service. It must be noted that the Department paid a premium for expedited fabrication of customized HVAC components. The timelines for the expedited fabrication does not take into account the time required for shipping and delivery. A letter of explanation from the company's president explaining this has been provided to OLA.

The Department wishes to further emphasize that many of our non-routine HVAC repairs involve steam coils that are located in patient care areas of the hospital. Leaks from broken coils frequently can result in hazardous mold, extreme internal temperature fluctuations within the buildings (in either direction), and other environmental hazards that compromise the safety of those individuals who are confined to the buildings or patient-care units. This same concern applies to the safety of the staff that care for the patients. Thus, it is very important that such repairs are completed as quickly as possible.

Because of the Department's fiduciary obligation to its patients, individuals who are confined to buildings that generally do not include alternative spaces for patient care activities; the Hospital often is compelled to pay a premium for expedited delivery of HVAC equipment for the patient care buildings. Decisions to pay a premium for expedited fabrication and delivery of HVAC equipment is generally based on several variables. These include extremes in the climate at the time of the equipment failure, building conditions, the vulnerability of the persons served therein (including an assessment of their ability to handle temperature extremes), and available alternatives that may exist at the time.

The Director of Facility Management or, as the Director's designee, the Multi-Service Center Manager (MSCM) will now routinely document the Director's verification that, in all instances, such equipment was received within an expedited delivery time prior to the invoice being paid.

The Department has performed a review of all items purchased from this contractor and has investigated the allegation that certain equipment was purchased, paid for, but never received. These allegations primarily involve one component of the many HVAC systems: steam coils. In one instance, we found that our person accompanying the OLA auditor took him, inadvertently, to the wrong area. We went back to the

proper area and photographed the “missing” item in its installed location. Also, six additional coils have been removed and disposed of as part of the “NORESKO” energy conservation project at Spring Grove. This is on-going and was in process during the audit investigation. Contemporaneous receiving records as well as freight bills of lading exist as documentation that the items had been received even though the items are not available today since they were destroyed during the renovations. An additional seven steam coils have been received and installed. Receiving records, photographs, and freight bills of lading exist to show that we did receive what had been ordered and paid for.

Another reason that the auditors were unable to locate certain coil model numbers had to do with the process utilized by the contractor to issue a replacement. The Department has on hand a letter from the contractor verifying that when a coil breaks and a custom-manufactured replacement coil is ordered, the vendor identifies the standard product that most closely approximates the coil that must be custom-built. The standard product number is supplied so that a Purchase Order can be generated for the necessary custom coil – for which we do not have a model number. The vendor then field-measures in order to obtain accurate sizing and other specifications. When the correct field measurements are received by the manufacturing plant, the coil is custom-made and the uniquely sized coil is typically given a new model number. In that way, the custom-made coil is not confused with one of the standard coils. Although in such instances the Purchase Order model number and installed model number do not match, the packing slip for shipping date matches the manufactured time. A letter from the company’s owner verifying this process has been provided to OLA. Effective immediately, any discrepancies regarding model numbers will be fully noted, explained and filed with the paperwork for future reference.

Lastly, the Department has consulted with the Office of the Attorney General Criminal Division regarding any further action to be taken.

Work Was Directed to Contractors That Employed a Specific Individual

Finding 2

Projects totaling \$232,000 were frequently directed by the Maintenance Department to three other contractors that employed a certain individual. No competition was sought for these procurements and certain other questionable practices were identified.

Legislative Auditor's Recommendation

We recommend that the Department strictly comply with State Procurement Regulations. We also recommend that SGHC consult with the Office of the Attorney General – Criminal Division regarding any further action to be taken.

Department's Response

The Department acknowledges that it did not strictly comply with proper procurement procedures in the instances cited, and it agrees with the recommendation that State procurement regulations be strictly followed. However, we want to point out that the Department's investigation into the various occurrences cited by the auditors does not lead us to conclude that appropriate value was not received or that waste occurred as a result. We are also able to identify corrective actions that have already been taken.

With reference to the finding that the Maintenance Department frequently directed certain work to contractors that employed a certain individual, it should be noted that the previous leadership of Spring Grove's Maintenance Department was pleased with the work of the individual in question, and when this individual changed companies the Maintenance Department continued to seek his expertise because of his experience and familiarization with the maintenance issues at SGHC. Although the individual's job title may have changed as he changed companies, the Department's finding is that his role in relationship to the Hospital and its specific HVAC repair needs did not. The Department also recognizes that even though its intentions were good, that this practice did not follow proper procurement procedures.

Procurement rules specify that procurements over \$2,500 require competitive bids while these under \$2,500 rely upon the judgment of the procurement officer. The Department maintains that some projects (each under \$2,500) did not require a competitive bid under the applicable procurement rules given the urgency of the needs for the repairs and our fiduciary obligation to our patients. The interest of the Department in such instances is always to complete HVAC repairs as quickly as possible in order to preserve patient safety and comfort.

The Department also wishes to note that many of the projects cited were for amounts that were well under \$2,500. For example, 20 of the 34 projects that were awarded to one of the vendors were completed for costs that were below \$1,000. Nearly half of these 20 were below \$500 each. Only 2 of the 24 projects were for costs that were in excess of \$2,000.

The Director of Facility Management for Spring Grove, however, has prepared an RFP for a standing contract for HVAC repairs throughout the campus. A similar RFP has also been prepared for a standing contract for steam coil replacements. The RFPs have been approved by the Director of DHMH's Office of Procurement and Support Services and will be placed on eMaryland Marketplace in the near future. The successful bidder will provide select preventive maintenance work and routine as well as emergency repair work within a specified turnaround time and at fixed rates.

Spring Grove had conducted a survey of hourly rates in an effort to pay only the current going rate, which was \$85 per hour. However, the Department acknowledges that the proper procurement procedures were not strictly followed. Today, under the system that has subsequently been put in place, an Emergency Request Form is always completed.

To reiterate, the following steps have been taken to avoid future violations of COMAR:

Purchases over \$2,500 are now being routinely secured through eMaryland Marketplace. Further, effective September 22, 2008, the Office of Procurement and Support Services staff began approving all Maintenance Department purchase orders over \$500. This level of oversight will continue until the Director of Office of Procurement and Support Services is fully satisfied that all local staff have completed

all necessary procurement trainings and are performing fully within the requirements of the procurement rules. For emergency procurements that cannot be accomplished through eMaryland Marketplace, a bid committee that is independent of the Maintenance Department has been established by the Finance Department at Spring Grove. This committee opens and reviews all bids received. The bid committee also awards the bid. The committee consists of the Chief Financial Officer (CFO), an Administrative Specialist II, and an Agency Buyer I. The bids are received sealed and are date-stamped in. The Spring Grove Chief Financial Officer ensures the integrity of the bids received, the process by which they are opened, and the selection that is made. In addition, the Department's Office of Procurement and Support Services approves the selected vendor/contractor in each instance. We believe this separation of powers first from the Maintenance Department by use of a new Committee and then from Spring Grove by approval at DHMH's Office of Procurement and Support Services will bring much better controls to the entire process.

The Department would also like to emphasize that the two new standing contracts for HVAC coil replacements and repairs will substantially reduce the frequency of purchases of goods and services by the Hospital's Maintenance Department.

We also acknowledged instances of vendor's invoices being paid for work that had been performed more than 6 months earlier. These delays in payment came as the result of improper invoicing by the vendor. More specifically, a particular vendor placed costs of all jobs onto one service ticket and billed it all on one invoice. The Hospital's Maintenance Department notified the vendor that the invoice could not be honored unless the Hospital was provided with an itemized breakdown of the charges by individual building so that it could verify the work performed in each building. As evidenced by written correspondence and a scheduled meeting among Spring Grove and the vendor's representatives, there had been multiple contacts made between the vendor's accounting department and our Maintenance staff in an effort to rectify the irregularities in the invoice.

The Department has consulted with the office of the Attorney General – Criminal Division.

Personal Relationships Existed Between Employees and Contractors

Finding 3

Projects were awarded to several contractors that had personal relationships with certain SGHC employees. At a minimum, the awarding of these projects created an appearance of conflicts of interest that may have violated State Ethics Law and a related Governor's Executive Order.

Legislative Auditor's Recommendation

We recommend that SGHC take appropriate action to ensure compliance with the State Ethics Law and the Governor's Executive Order. We also recommend that SGHC take immediate action to refer the above information to the State Ethics Commission. Moreover, we recommend that SGHC consult with the Office of the Attorney General – Criminal Division regarding any further action to be taken.

Department's Response

The Department concurs that SGHC should take action to ensure compliance with the State Ethics Law and the Governor's Executive Order. Further, we agree that the analysis may give the appearance of a possible conflict of interest in certain instances. However, the Department does not find that prestige of office was used for the Department's employees' private gain, and we do not believe that State Ethics Law and a Governor's Executive Order were violated. However, the matter has been referred by the Department to the State Ethics Commission for further consideration.

With specific reference to the finding that pertains to the hiring of a Maintenance Department senior management employee, the Hospital's Chief Operating Officer (COO) obtained a reference from a vendor that had been used by the potential employee in his last position. Given the extended length of time this Maintenance Department management employee was employed by his then-current employer, the source of references was limited. The Chief Operating Officer sought a reference from someone who had worked with the prospective employee and was familiar with his management and leadership expertise. This was one of three favorable references

obtained and was used only as additional verification of capability. In other words, the applicant's selection was not dependent upon a favorable reference by the contractor. Further, the Director of the Office of Procurement and Support Services has audited all projects that were subsequently awarded to the heating and plumbing contractor and was unable to determine if preferential treatment was given to any private organization or individual. The matter has, however, been referred by the Department to the State Ethics Committee for their determination.

The newly hired Maintenance Department Senior Management employee allowed the above company to supply competitive bids for certain types of SGHC projects when he first arrived. For example, three competitive bids were obtained for the patient shower replacement project in the White Building, D Unit. The company in question was paid an additional \$2,042 for work that was unforeseen. This renovation involved a patient shower room and was part of the energy management program under a critically tight timeframe for completion. The other work cited was for an emergency sewage issue at the power plant (\$9,700). Not only was the sewage running into a high voltage manhole but also due to the back-up, proper blow down procedures were not able to be performed on the boilers. SGHC considered this an emergency situation and completed the Emergency Request Form.

With respect to the emergency repair to the deaerator tank at the SGHC Power Plant (\$3,976) the power plant will only be in operation until November 2009 and then will be decommissioned. Having received competitive quotes for the deaerator tank repair ranging from \$20,000 to \$120,000, the Director believed it to be in best interests of the Hospital and the Department to spend \$3,796 on a "patch" repair. The plumbing and heating company recommended the alternative to full repair. In retrospect, the alternative suggestion could have been used to solicit additional bids if this was not a time critical event.

It does appear that several of the documents reviewed may have been inadvertently misdated. For example, a bid sheet appears to have been mistakenly misdated at the beginning of a new month and, accordingly, should have read 3/6/08 rather than 2/6/08.

Management personnel above a grade 16 file a Financial Disclosure Statement with the Ethics Commission on an annual basis. The Director of Personnel will add this

documentation to the hiring process. Upon notification of the requirement, the Maintenance Department senior management employee has filed a Financial Disclosure Statement.

The Department does not believe that a SGHC senior management employee's conduct violated State ethics law or a February 2007 Governor's Executive Order related to standard of conduct. In particular, the non-profit professional association mentioned exists to benefit administrators/managers in facility management through education and exchange of information via monthly meetings and an annual seminar. Facility Directors in the region's major healthcare facilities belong to this organization. Recognized national leaders in the field of Facility Management have been engaged to speak at meetings. There was full disclosure to the Hospital's Chief Executive Officer in advance, and the Chief Executive Officer approved the plan for the hospital to join the organization and to send representatives to their annual meetings. The Chief Executive Officer believed that it was in the best interests of the hospital and that there were substantial benefits from the educational opportunities for Maintenance Department Employees. No viable competing organization is known to exist and many local hospitals and other health care facilities are members. The seminars that are provided to members serve as an outstanding source of up-to-date information on accreditation standards, emergency preparedness, fire protection and other safety engineering, infectious disease risks, such as legionella, and other issues facing health care organizations today. We do not agree that any actual conflict of interest existed. The President of the organization received no personal or professional aggrandizement or personal/financial gain from SGHC personnel joining the organization.

The three (3) no bid projects awarded to an interior design firm who happened to be a member of the same organization were for minimal and unrelated projects. The Hospital's need was for a firm that specialized in health care, was familiar with design elements and products that are geared towards hospitals, and could envision the finished project. Each of three projects were completed for under \$2,500.

Questionable Insurance Claim Submitted to the State Treasurer's Office

Finding 4

SGHC submitted, and was reimbursed for, a questionable insurance claim made to the State Treasurer's Office totaling \$35,022.

Legislative Auditor's Recommendation

We recommend that, in the future, SGHC only submit insurance claims to the State Treasurer's Office for losses that are actually incurred.

Department's Response

The Center concurs with the recommendation that the Department should only submit insurance claims to the State Treasurer's Office for losses that are actually incurred. The aforementioned chiller was damaged on 10/27/05 by a fallen tree. According to maintenance department personnel, the chiller was only marginally serviceable, but was able to "limp along" after being damaged for a period of time. Damage to the chiller was analogous to damage to a car involved in an accident: it is still drivable, but it has received significant damage. This was not an issue of an inappropriate claim, but rather lack of proper and timely paperwork. Under the new Chief Financial Officer and Facility Management Director, such claims will be coordinated and filed in a timely manner.