

Audit Report

State Board of Elections

June 2010



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

Karl S. Aro
Executive Director

June 10, 2010

Bruce A. Myers, CPA
Legislative Auditor

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 have audited the State Board of Elections (SBE) for the period beginning March 1, 2006 and ending June 30, 2009. SBE is responsible for managing and supervising elections and voter registrations in the State. SBE directs, supports, monitors, and evaluates the activities of each of the 24 local boards.

Our audit disclosed several deficiencies with respect to oversight of the local election boards. Procedures were not sufficient to ensure the propriety of the Statewide voter registration database. For example, processes put in place to ensure the propriety of critical database changes (such as to add or delete voter registrations) processed by the local boards were not comprehensive and SBE did not ensure that local boards removed convicted felons from the voter registration database. Furthermore, although specified in SBE's contract with the vendor, SBE had not obtained an independent audit of system controls over the Statewide voter registration system, which would help ensure the integrity of the database. Finally, we noted that SBE did not conduct formal comprehensive reviews of the local boards' compliance with election laws and regulations, such as those related to absentee and provisional balloting. The lack of a structured review process has been noted in our five preceding audit reports, dating back to 1995.

Our audit also disclosed that the controls over cash receipts and accounts receivable were seriously deficient. For example, certain critical duties were not separated and the accounts receivable records were not properly maintained. Finally, we noted internal control and record keeping deficiencies relating to the budgetary closeout process, purchasing and disbursement transactions, contract monitoring, and information systems security and control. For example, SBE failed to report unfunded liabilities to the Comptroller of Maryland - General Accounting Division totaling \$2 million during the fiscal year 2009 budget closeout process.

An executive summary of our findings can be found on page 5. SBE's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by SBE.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

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* Denotes item repeated in full or part from preceding audit report

Executive Summary

Legislative Audit Report on the State Board of Elections (SBE) June 2010

- **SBE's procedures for ensuring the propriety of the data processed by the local boards on the Statewide voter registration system were not sufficient. In response to our preceding audit report, SBE implemented a requirement that each local board verify up to 20 changes to the system each month (10 additions and 10 deletions); however, this requirement did not consider the number of transactions processed by each board in that month, nor did the guidance require that the number of items tested be increased if errors were found. The number of monthly voter registration additions at one large board ranged from 1,422 to 17,330 during fiscal year 2009. In addition, SBE did not ensure that local boards removed convicted felons from the voter registration database.**

SBE should ensure that adequate procedures are in place for monitoring the propriety of data on the Statewide voter registration system. Specifically, SBE should provide adequate guidance to the local boards regarding expanding the reviews of critical changes to the voter registration system, and should ensure convicted felons are removed from the database.

- **SBE had not obtained an audit of system controls over the Statewide voter registration database, even though such an audit is required by SBE's contract with the system consultant. Without such an audit, SBE is essentially relying on the contractor's assertion that this critical database is secure and properly functioning.**

SBE should obtain an independent audit of the voter registration system controls as soon as possible.

- **Formal, comprehensive reviews were not periodically conducted of each local board's compliance with election laws and regulations. Although SBE conducted certain oversight activities to help ensure local board compliance with select laws and regulations, in general, such procedures were done on an ad hoc basis. The lack of a structured review process has been noted in our five preceding audit reports, dating back to 1995.**

SBE should periodically conduct formal, comprehensive reviews of each local board's compliance with applicable election laws and regulations.

- **At the end of fiscal year 2009, SBE failed to report to the Comptroller of Maryland—General Accounting Division (GAD) an unfunded liability of \$2 million related to certain unpaid vendor invoices.**

SBE should properly report any unfunded year-end liabilities to GAD in accordance with State directives.

- **SBE did not ensure adequate controls were in place over the processing of cash receipts, accounts receivables, purchasing and disbursement transactions, contract monitoring, information systems security and control, and equipment. For example, the employee who performed cash deposit verifications also handled the initial record of collections, prepared the deposits, and maintained the accounts receivable records.**

SBE should establish the recommended controls and procedures over critical processes.

Background Information

Agency Responsibilities

The Election Law Article, Section 2-101 of the Annotated Code of Maryland, established the State Board of Elections (SBE) under the direction of a five-member Board appointed by the Governor, with the advice and consent of the Senate. In addition, in accordance with Section 2-201 of the aforementioned Article, the Governor has appointed local election boards within each of the State's 24 subdivisions. Each local board is charged with overseeing the conduct of all elections within its respective jurisdiction.

SBE is responsible for managing and supervising elections and voter registrations in the State. SBE directs, supports, monitors, and evaluates the activities of each local board. In addition, SBE administers sections of the Election Law Article of the Annotated Code of Maryland that govern the receipt and expenditure of funds for election campaigns, and administers the Public Financing Act, which provides for public financing of the campaigns of eligible gubernatorial candidates who elect to use such funds. SBE also serves as a depository for election and registration records, campaign financial reports, and other election information. According to the State's records, during fiscal year 2009 SBE had 32.5 authorized positions and operating expenditures totaling approximately \$25 million.

Election Contract Claim

In November 2008, the Office of Attorney General (OAG) submitted a claim to a vendor, on behalf of SBE, requesting that it pay SBE approximately \$8.5 million in reimbursement because the vendor had failed to conform to certain contract requirements. This contract began in December 2001 and was extended (through subsequent modifications) to December 2008, at a total cost of \$91 million. The contractor was to purchase, test, and deliver voting equipment with both touch screen voting (for use at polling locations) and optical scan voting (for counting absentee and provisional ballots) systems; maintain those systems; and provide expanded management services.

As detailed in the claim, after SBE's initial acceptance of the various products and services by the vendor, two independent reviews, in 2003 and 2004, identified system flaws (such as voting equipment that lacked adequate access controls) which, under the contract terms, were the vendor's responsibility. In response to the investigations, SBE implemented supplemental measures to help ensure the systems met the requirements set forth in the contract: to maintain the integrity of

State and local primary, general, and special elections. As part of that process, SBE purchased additional goods and services, at a total cost of approximately \$8.5 million.

We were advised by the OAG that, as of November 2009, the vendor had not responded to the claim that the State submitted in November 2008. In November 2009, the Board of Public Works (BPW) approved funding for an independent auditor to assist the OAG in analyzing the aforementioned \$8.5 million claim. We were advised by SBE management that a new analysis of the claim would be helpful because the \$8.5 million claim amount was an estimate and that this analysis would determine the actual amount owed to SBE. Consequently, there has been no resolution to the OAG claim. SBE has withheld approximately \$5.1 million in payments on invoices (not directly related to the \$8.5 million being contested) from the vendor until the claim issue is resolved.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the nine findings contained in our preceding audit report dated October 13, 2006. We determined that SBE satisfactorily addressed three of these findings. The remaining six findings are repeated in this report. These six repeated findings appear as seven findings in this report.

Findings and Recommendations

Statewide Voter System and Oversight

Statewide Voter Registration System

Background

State and federal law require the State Board of Elections (SBE) to establish, maintain, and administer a Statewide voter registration database. The Statewide voter registration system contains the State's official voter registration database (and is separate from the Statewide electronic voting system). Employees from each of the State's 24 local election boards are primarily responsible for processing (adding, deleting, changing) voter registration data on the system. SBE directs, supports, monitors, and evaluates the activities of each local board. According to the voter registration database, there were approximately 3.4 million active registered voters Statewide as of July 2009, and approximately 342,600 new voters were added to the database during fiscal year 2009.

Finding 1

SBE's procedures for monitoring the local boards to help ensure the propriety of Statewide voter registration system data were not sufficient.

Analysis

SBE's procedures for monitoring the local boards to help ensure the propriety of data processed on the Statewide voter registration system were not sufficient. Specifically, we noted the following conditions:

- SBE's procedures for monitoring the propriety of critical changes to system data (such as adding or deleting voter registrations) were not sufficient. In response to our preceding audit recommendation, SBE had provided guidance to the local boards, which included a requirement that the local boards review up to 20 changes a month (10 additions and 10 deletions). However, the requirement for each local board to test up to 20 transactions each month did not consider the number of transactions processed in that month, nor did the guidance require that the number of test items be increased if errors were found in the test items. Furthermore, SBE did not independently review any verifications reported as performed by the local boards, or otherwise ensure that the required number of verifications were performed. Such reviews could be included as part of the more comprehensive reviews recommended in finding 3. The number of monthly voter registration additions at one large local board ranged from 1,422 to 17,330 during fiscal year 2009.

- SBE did not perform any follow-up procedures to determine whether the local boards had removed convicted felons from the voter registration database, as required. On a monthly basis, SBE received reports of convictions from the Judiciary and forwarded these reports to the local boards for removal of all felons that were registered voters. However, our test of 22 convicted felons, who were registered voters prior to their convictions, disclosed that, as of September 2009, 7 felons were still listed as registered voters in the database even though these individuals were included on the Judiciary's February 2009 report. State law provides that an individual is not qualified to be a registered voter if the individual has been convicted of a felony, and is actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction. According to SBE, there were 449 felony convictions reported to the local boards in February 2009 (only a portion of which related to registered voters), and 1,745 registered voters were removed from the Statewide voter registration database during fiscal year 2009 due to criminal convictions.
- SBE had not established procedures to ensure that the local boards removed system access from terminated employees. Our review at two local boards disclosed that, as of September 2009, 15 of 76 terminated employees were still assigned capabilities that allowed them to modify the database even though they had left SBE employment from 3 to 20 months earlier. While access capabilities had been removed from the remaining 61 terminated employees, there was a lack of documentation to support that these removals were made timely. We also noted that one terminated employee's logon ID was actually used after the employee's termination date to make changes to the system. SBE's policy requires that logon access be removed within 24 hours of an employee's termination.

Recommendation 1

We recommend that SBE establish adequate procedures for monitoring the local board's activities on the Statewide voter registration system.

Specifically, we recommend that SBE

- enhance the guidance to the local boards to require expanding the number of critical changes to the voter registration system that are reviewed, based on the number of transactions and the number of errors;**
- verify that the required number of reviews of critical changes were properly performed;**
- establish procedures to ensure the local boards remove convicted felons from the voter registration database;**

- d. **establish procedures to ensure the local boards remove voter registration system access for terminated employees within 24 hours, as required, and retain related documentation; and**
- e. **review for propriety the transactions processed using the logon ID of the aforementioned terminated employee, and take appropriate action.**

Finding 2

SBE had not obtained an audit of system controls over the Statewide voter registration system.

Analysis

SBE had not obtained an audit of system controls over the centralized voter registration database. The consultant who implemented the system continues to operate and maintain it. SBE's contract with the system consultant provided that, at its own expense, SBE would obtain a Statement on Auditing Standards No. 70 (SAS 70)¹ type audit of the voter registration system during the base contract period, which ended December 31, 2006, and had the right to obtain additional SAS 70 audits. However, SBE did not obtain an audit during the base contract period, and has not obtained an audit during the successive four years during which the contract was renewed.

A SAS 70 audit is important because it encompasses evaluations of application development, system maintenance, logical security and access, and business continuity controls. The audit could, for example, verify that system controls are in place, which would help ensure that only authorized changes (such as adding new registrants) are made to the voter registration database. In addition, such an audit would contain the auditor's opinion regarding these controls. Without such an audit, SBE is essentially relying on the vendor's assertion that this critical database is secure and the related application is functioning properly.

A similar condition was commented upon in our preceding audit report. Subsequent to the issuance of our preceding audit report, SBE advised that it issued a request for proposals for a SAS 70 audit of the Statewide voter registration system; however, no bids were received. In March 2007, SBE requested authorization from the General Assembly's Joint Audit Committee

¹ A SAS 70 audit is a widely recognized auditing standard developed by the American Institute of Certified Public Accountants (AICPA) and it is generally designed to enable the auditor to evaluate and issue an opinion on controls relating to a service organization, such as the system consultant being used by SBE. It may only be conducted by an independent certified public accountant or firm that adheres to specific professional standards established by the AICPA.

(JAC) to waive this audit recommendation. Although the JAC responded that it was necessary for SBE to exhaust all reasonable steps to obtain the SAS 70 audits, SBE did not comply with the JAC's directive. SBE did not attempt to obtain these services through an available Statewide contract, and did not attempt to require that the system consultant contract for and pay for a SAS 70 audit of the Statewide voter registration system. Many service providers periodically obtain these audits for their clients.

Recommendation 2

We recommend that SBE

- a. obtain a SAS 70 type audit of the controls over the voter registration system as soon as possible (repeat),**
- b. ensure that any significant deficiencies identified in the audit report are appropriately and promptly resolved (repeat), and**
- c. include a provision in future contracts that the vendor obtain and pay for periodic SAS 70 audits of the voter registration system.**

Oversight of Local Election Boards

Finding 3

Formal comprehensive reviews were not periodically conducted of each local board's compliance with election laws and regulations.

Analysis

Formal comprehensive reviews were not periodically conducted of each local board to monitor compliance with applicable election laws and regulations, such as those related to absentee and provisional balloting. Although in May 2006 SBE developed a draft plan to review the local boards, we were advised that the plan has not been implemented due to a lack of resources. This plan included reviews of local board compliance with the procedures for 10 election management areas, including the voter registration process, voting system procedures, and campaign finance data collection and reporting, the results of which SBE would have summarized to produce a Statewide report. The lack of these formal comprehensive reviews has been noted in our five preceding audit reports, dating back to 1995.

SBE's current oversight activities were not structured and differed significantly from the aforementioned draft plan. While acknowledging that its current oversight activities were less than what was contemplated by this draft plan, SBE advised that its oversight activities included reviewing whether certain notices (for example, voter registration applications) were sent timely and ensuring that

confidential data were adequately maintained. However, we were also advised that, in general, such procedures were done on an ad hoc basis and were not formally documented; accordingly, we were unable to assess the extent of SBE's oversight performed.

The Election Law Article of the Annotated Code of Maryland provides that SBE is responsible for supervising the elections in the State and ensuring compliance by the local boards of elections with State election requirements.

Recommendation 3

We recommend that SBE establish and implement a plan to conduct formal, comprehensive reviews of each local board's compliance with applicable election laws and regulations (repeat).

Financial Management

Budgetary Year-End Closeout

Finding 4

At the 2009 fiscal year-end, SBE failed to report unfunded liabilities totaling \$2 million to the Comptroller of Maryland, as required.

Analysis

SBE failed to report unfunded liabilities to the Comptroller of Maryland – General Accounting Division (GAD) totaling \$2 million during the fiscal year 2009 budgetary closeout process, as required by GAD procedures. At the 2009 fiscal year-end, SBE discovered that it had outstanding invoices of \$2 million that exceeded its available appropriations; accordingly, a portion of the \$5.1 million that it intended to use to encumber funds for a disputed vendor claim (see Election Contract Claim comment on page 7), was instead used to fund the current expenditures. Specifically, SBE reduced its encumbrance balance by \$2 million (from \$5.1 million to \$3.1 million), resulting in an unfunded liability of \$2 million. This issue was reported upon in our fiscal year 2009 budget closeout review.

Subsequent to our fieldwork, SBE obtained a budget amendment to fund \$900,000 of the unfunded liability, and we were advised by SBE management that it is uncertain as to how it will ultimately fund the remaining \$1.1 million liability.

Recommendation 4

We recommend that SBE

- d. properly report any unfunded year-end liabilities (including the one identified in the analysis) to GAD, and**
- e. develop a plan to fund the remaining \$1.1 million liability.**

Cash Receipts

Finding 5

Adequate internal controls were not established over cash receipts.

Analysis

Procedures and controls over cash collections received at the headquarters unit, which totaled approximately \$7.8 million in fiscal year 2009, were not adequate. Specifically, our review disclosed the following conditions:

- The employee who performed the deposit verifications was not independent of the related collections. This employee also received the documentation used to initially record collections, prepared the related deposits, and had access to the safe in which the collections were retained overnight. A similar condition was commented upon in our preceding audit report. In addition, this same employee recorded invoices and payments in the accounts receivable records. Consequently, there was lack of assurance that all cash receipts collected were deposited.
- Although all cash receipts were recorded on a cash register, SBE did not verify the continuity of daily cash register tapes via a comparison of the transaction numbers. As a result, collections could be misappropriated without detection.
- Cash receipts were not deposited timely. Specifically, our test of 10 checks received, totaling approximately \$1.6 million, disclosed that these 10 checks were deposited from 3 to 18 business days after the dates received. For example, one check in the amount of \$1.3 million was not deposited until 17 days after receipt by SBE. The State Comptroller's *Accounting Procedures Manual* requires that cash receipts be deposited no later than one business day after the date of receipt.

The vast majority of SBE's collections were payments on accounts receivable, which primarily represent amounts due from local jurisdictions for local election board employees' salaries and benefits, and for other election related costs, such

as voting machine purchases. These expenses and costs are initially paid by SBE and then reimbursed by the local jurisdictions.

Recommendation 5

We recommend that SBE

- a. ensure that the documentation used to initially record collections is given directly to an employee independent of the collection and deposit functions for verification to deposit (repeat);**
- b. ensure that employees who maintain the accounts receivable records do not have access to the related cash receipts;**
- c. ensure that independent supervisory personnel review the continuity of the cash register tapes via a comparison of the transaction numbers; and**
- d. deposit cash receipts within one business day after the date received, as required.**

We advised SBE on accomplishing the necessary separation of duties using existing personnel.

Accounts Receivable

Finding 6

SBE performed virtually no collection efforts on its accounts receivables and the related accounts receivable records were not adequately maintained.

Analysis

SBE performed virtually no collection efforts on its accounts receivables and the related accounts receivable records were not adequately maintained. SBE's accounts receivables generally represented reimbursements due from local boards for their share of certain costs, such as employees' salaries and voting machine purchases. Specifically, our review disclosed the following conditions:

- Unpaid accounts were not subject to collection efforts beyond the initial billings. In this regard, we were advised by SBE management that SBE billed local boards for certain costs, such as employees' salaries, but did not take subsequent collection action if the local boards did not pay. That is, it did not send subsequent billings and it did not refer accounts to the State's Central Collection Unit (CCU), as required by State regulations. According to SBE's records, SBE's outstanding accounts receivable balance as of September 2009 was \$2.9 million, of which \$2 million was older than 60 days. For example, we noted that the records included 5 accounts totaling \$707,876, which ranged

from 10 to 21 months old at September 2009. However, as noted below, SBE's accounts receivable records were unreliable.

- The accounts receivable records were inaccurate and, consequently, could not be relied upon. Specifically, our test of 10 accounts receivable, totaling approximately \$935,000, disclosed that 4 of the accounts totaling \$171,152 were not supported with invoices to evidence that the funds were owed to SBE. Furthermore, payments totaling \$188,730 for two other invoices were not posted to the accounts receivable records.
- An accounts receivable control account was not maintained, as required. A control account is a continuous summary of transactions and serves as a total dollar value control over amounts in the detail records.

According to SBE records, payments on accounts receivable totaled approximately \$14.4 million during fiscal year 2009. State regulations require agencies to take aggressive actions to collect outstanding accounts receivable and that delinquent accounts be referred to CCU. Additionally, the State Comptroller's *Accounting Procedures Manual* requires agencies to maintain adequate accounts receivable records including detail and control accounts.

Recommendation 6

We recommend that SBE take aggressive collection action to collect accounts receivable and maintain accurate and adequate records, in accordance with State regulations and the Comptroller's *Accounting Procedures Manual*. Specifically, we recommend that SBE

- a. implement collection procedures for accounts receivable, including sending follow-up notices and referring delinquent accounts to CCU;**
- b. investigate and correct the aforementioned inaccurate records; and**
- c. maintain adequate records, including accurate detail and control accounts.**

Finding 7

Controls over the processing of non-cash credit adjustments to accounts receivable were inadequate.

Analysis

Controls over the processing of non-cash credit adjustments to accounts receivable were inadequate. During our audit period, such adjustments totaled approximately \$12.2 million. Specifically, our review disclosed the following conditions:

- Non-cash credit adjustments were not approved by supervisory personnel. In this regard, during three days in May 2008, SBE processed 178 non-cash credit adjustments totaling \$11.9 million without supervisory review and approval. This represented more than 97 percent of the value of non-cash credit adjustments processed during our audit period. We were advised that these adjustments were necessary to correct errors SBE made when it improperly coded invoices as reductions of expenditures rather than as accounts receivables. Our test 10 of these adjustments, totaling approximately \$2.6 million, disclosed that there was no documentation to support the propriety for any of them. However, subsequent to our inquiries, SBE provided documentation for these transactions, and the adjustments generally appeared to be reasonable.
- There were no verifications performed to ensure that only authorized non-cash credits were posted to the accounts receivable records. This is significant in view of other deficiencies mentioned in this finding. Additionally, this condition was commented upon in our three preceding audit reports dating back to March 2001.
- Two employees, who routinely handled collections, also had been assigned system access capabilities to record non-cash credit adjustments in the accounts receivable records. Furthermore, one of these employees also maintained the accounts receivable records (see Finding 5). The lack of separation of duties between cash collection and the processing of non-cash credits was also commented upon in our preceding audit report.

Recommendation 7

We recommend that

- a. non-cash credit adjustments be reviewed as to their propriety and approved by a supervisory employee,**
- b. SBE review the \$11.9 million in adjustments for propriety,**
- c. an employee independent of the collection and deposit functions verify that only authorized non-cash credits are posted to the accounts receivable records (repeat), and**
- d. employees assigned the capabilities to record non-cash credits not have access to collections (repeat).**

Purchases and Disbursements

Finding 8

Proper internal controls have not been established over the processing of purchasing and disbursement transactions.

Analysis

Proper internal controls were not established over the processing of purchasing and disbursement transactions. Specifically, SBE was not fully using the available security features of the State's Financial Management Information System (FMIS) to restrict user access and prevent unauthorized purchasing and disbursement transactions. Specifically, one employee could initiate and approve certain purchasing and disbursement transactions without independent approval. Additionally, this employee could also release disbursement transactions to the Comptroller of Maryland – General Accounting Division for payment. Consequently, unauthorized transactions could be processed which may not be readily detected.

In addition, purchases made via FMIS were not thoroughly reviewed. Specifically, the employee who approved purchase orders did not ensure that related procurements were reasonable and properly procured by reviewing supporting documentation, such as related bidding quotes and contracts. Consequently, improper purchases could be made and not timely detected.

According to the State's accounting records, during fiscal year 2009, SBE's expenditures through FMIS totaled approximately \$9.4 million.

Recommendation 8

We recommend that SBE

- a. fully use the available FMIS security features by establishing independent online approval requirements, and**
- b. review supporting documentation when approving purchasing transactions.**

Contract Monitoring

Finding 9

SBE did not always obtain and review adequate documentation to support labor hours billed by contractors.

Analysis

SBE did not always obtain and review appropriate documentation to ensure payments to contractors were for actual labor hours provided. We selected nine fiscal year 2007 to 2009 invoices, totaling \$3.2 million, applicable to three contracts totaling approximately \$24.5 million, for testing. Our test of payments for labor costs totaling \$1.9 million for two of these contracts disclosed that SBE monitoring was inadequate or not documented for payments totaling approximately \$377,000. Specifically, SBE had not received and/or reviewed approved supporting time records for certain billed costs or the contractor personnel listed on the billings had not been approved by SBE, as required by the contract. Additionally, SBE had not reviewed for propriety \$733,000 in payments made during our preceding audit without obtaining contractor time records as recommended in our preceding audit report. Consequently, there was a lack of assurance that SBE paid only for valid hours worked.

Recommendation 9

We recommend that SBE

- a. obtain and review, at least on a test basis, sufficient time records for contractor payments, including the aforementioned payments (repeat); and**
- b. ensure that contractual personnel are approved, when required.**

Technology Contract – Election Management System

Finding 10

SBE did not follow certain State requirements for technology procurement.

Analysis

SBE did not adhere to certain State procurement requirements for a large technology contract and the receipt of deliverables was not always monitored. Specifically, our review of the procurement of service and maintenance for SBE's election management system that totaled \$2.1 million disclosed that the technical

evaluations were not signed by the evaluators. In addition, while the vendors solicited were requested to submit forms explaining why they did not submit bids, SBE did not have these forms on file.

These services were procured through the Department of Budget and Management's (DBM) Office of Information Technology (which became the Department of Information Technology – DoIT – in July 2008), which has procured a number of multi-year information technology contracts to be used by State agencies, subject to agency-specific bids. When these contracts are used, agencies must adhere to certain contract oversight requirements established by DoIT, and DoIT may perform procedures to verify such compliance. For example, DBM's, and currently DoIT's, policies require agencies to adequately document technical evaluations and to obtain and retain response forms from all of the solicited vendors. We also noted that one deliverable for a significant component of this contract was to be received by September 2008 per the contract terms; however, even though payment had been made, the deliverable had not been received as of September 2009, and there was no documentation that SBE was aware of this. We were advised by SBE management that the vendor provided other services in place of this deliverable; however, the contract was not modified to reflect this change.

Recommendation 10

We recommend that SBE

- a. adequately document its technical evaluations, and obtain and retain the forms explaining why vendors did not bid, and otherwise ensure compliance with DoIT's policies; and**
- b. verify, before making payment, that vendors provide all contractual deliverables.**

Information Systems Security and Control

Background

To support State of Maryland voter registration and elections activities, SBE maintains a local area network for its headquarters operation, which includes servers that support election management, campaign finance reporting, and email communications. The SBE headquarters network is connected to the Internet and SBE utilizes networkMaryland for its wide area network connections to the 24 local boards of elections and to two offsite data centers where the centralized voter registration application resides.

The SBE has a public website, which is used to present various information concerning election matters, including voter registrations, campaign finances, and results for elections within the State of Maryland.

Finding 11

The firewall used to help secure the SBE headquarters local area network was not properly configured or monitored.

Analysis

The firewall used to help secure the SBE headquarters local area network was not properly configured or monitored.

- Firewall rules were not configured to adequately protect the SBE headquarters network from external untrusted networks. Accordingly, the headquarters network, which hosted key applications involving election management and campaign finance reporting, was unnecessarily exposed to attack, which could result in a loss of data integrity, the destruction of critical files, or the interruption of services. A similar condition was commented upon in our preceding audit report.
- Although the firewall was configured to log security events, we were advised that SBE personnel did not regularly review these firewall logs. In addition, for the reviews that were performed, there was no documentation substantiating the reviews. As a result, the firewall's security related events, examples of which include denial of network traffic, attempts to directly access the firewall, and instances of changes to the firewall configuration, were not adequately monitored.

DoIT's *Network Security Standard* and *Access Control Standard* require that critical portions of State agency networks be protected by properly configured firewalls which are maintained on a timely basis and that proper monitoring of security audit trails exist.

Recommendation 11

We recommend that SBE

- a. configure its firewall in a secure manner (repeat), and**
- b. regularly review the firewall logs to permit identification and investigation of security events and document these reviews.**

Federal Funds

Finding 12

SBE had not recovered indirect costs for a federal grant because it had not prepared an indirect cost recovery plan, as required by DBM.

Analysis

SBE had not recovered indirect costs for a federal grant related to the Help America Vote Act because it had not prepared an indirect cost recovery plan, as required by DBM. Consequently, a portion of the federal funds received for the grant, which could have been used to cover certain indirect costs of administering the grant (that is, to defray general fund expenditures), instead were used for direct program costs of the grant. According to the State's records, during fiscal year 2009, federal fund expenditures totaled approximately \$1.7 million. The extent of indirect costs which related to support services provided to SBE and various other State agencies could not be readily determined. However, we contacted the cognizant federal agency which advised that, once SBE negotiates an indirect cost rate, it can claim indirect costs.

DBM's policy requires that State agencies recover all costs, direct and indirect, associated with the administration of federally funded programs. State agencies are also required to annually prepare an indirect cost allocation plan to distribute all indirect costs within the agency, including any costs allocated through the Statewide cost allocation plan. Consistent with this policy, annual budget language requires DBM to report on Statewide indirect costs to the General Assembly, and agencies are required to specify indirect costs recoveries in their annual budgets. We were advised by SBE management that the cost allocation plan was not prepared because it thought that the plan was not required.

Recommendation 12

We recommend that SBE comply with the aforementioned DBM policy.

Equipment

Finding 13

Adequate controls and accountability were not maintained over equipment.

Analysis

SBE did not maintain adequate controls and accountability over its equipment which, according to SBE records, totaled approximately \$22 million as of July 2009. Specifically, we noted the following conditions:

- Equipment was not always recorded in the detail records. Specifically, our test of 15 equipment items purchased between August 2008 and November 2008, totaling approximately \$68,000, disclosed that 11 of the items totaling \$55,900 were not recorded in the detail inventory records as of August 2009.
- Although SBE advised us that a physical inventory of sensitive and non-sensitive equipment items had been conducted in May 2008, there was no documentation, such as inventory count sheets, to substantiate that the inventory had been conducted and that the results of the physical inventory had been reconciled to the related detail records. Prior to May 2008, we were advised that the most recent physical inventory was conducted in 2004.
- SBE did not maintain an equipment control account. A control account is a continuous summary of transactions and serves as a total dollar value control over amounts in the detail records. This was commented upon in our four preceding audit reports dating back to September 1997.
- SBE did not submit the required annual report of fixed assets to the Department of General Services (DGS) for the years ending June 30, 2009, 2008, and 2006.

The DGS *Inventory Control Manual* requires that agencies maintain detail and control records and prescribes the frequency in which to conduct physical inventories. Furthermore, the *Manual* requires that, at the end of each fiscal year, each agency must report to DGS the value of its fixed assets.

Recommendation 13

We recommend that SBE maintain adequate controls and accountability for equipment. Specifically, we recommend that SBE

- a. record all capital equipment items in the detail equipment records for identification and control purposes;**

- b. conduct periodic inventories and retain related documentation for audit and verification purposes;**
- c. establish and maintain an equipment control account on a current basis, and periodically reconcile the control account balance to the aggregate balance of the related detail records (repeat); and**
- d. submit annual reports of fixed assets each fiscal year to DGS.**

Tuition and Training Expenses

Finding 14

Employee tuition and training expenses were not approved by DBM, as required by State regulations, and certain expenses were inappropriately paid and subsequently recovered.

Analysis

Tuition and training expenses were not approved by DBM, as required by State regulations. Specifically, our review of tuition and training expenses, which totaled \$11,500 in calendar year 2008, disclosed that one management employee paid \$5,600, using a corporate purchasing card (CPC), for four graduate courses and the related books. However, SBE did not obtain the required approval from DBM for that training. Furthermore, since SBE paid for these courses in advance (rather than reimburse the employee upon completion), it was unaware that the employee withdrew from two of the courses. After we brought this matter to the attention of SBE's management in August 2009, the employee agreed to reimburse SBE for \$2,957—the cost of tuition and books for the two courses not completed. In part, because of this situation, SBE suspended its use of CPCs in June 2009.

Additionally, SBE paid \$5,852 for another employee's computer training without obtaining the required approval from DBM.

State regulations require approval from DBM for employee training expenses, including tuition reimbursement. Effective December 2008, DBM revised its policy on tuition reimbursement and training so that only requests costing more than \$2,500 need to be approved by DBM; prior to this time, DBM approval was required for all such requests.

Recommendation 14

We recommend that SBE

- a. submit tuition and training expenses to DBM for approval, as required; and**
- b. pay only for tuition expenses upon satisfactory completion of the course.**

Audit Scope, Objectives, and Methodology

We have audited the State Board of Elections (SBE) for the period beginning March 1, 2006 and ending June 30, 2009. 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 SBE's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the status of the findings contained in our preceding audit report.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. The areas addressed by the audit included procurements and disbursements, voter registration system and local election board oversight, accounts receivable, cash receipts, equipment, and payroll. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of SBE's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

Our audit did not include an evaluation of internal controls for federal financial assistance programs and an assessment of SBE's compliance with federal laws and regulations pertaining to those programs because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including SBE.

SBE'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.

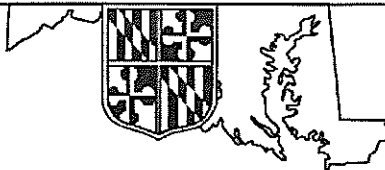
This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect SBE's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, 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 SBE that did not warrant inclusion in this report.

SBE's response 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 SBE regarding the results of our review of its response.

STATE BOARD OF ELECTIONS

P.O. BOX 6486, ANNAPOLIS, MD 21401-0486 PHONE (410) 269-2840

Robert L. Walker, Chairman
Bobbie S. Mack, Vice Chairman
Rachel T. McGuckian
David J. McManus, Jr.
Charles E. Thomann



Linda H. Lamone
Administrator

Ross Goldstein
Deputy Administrator

June 8, 2010

The Honorable Verna L. Jones, Co-Chair
The Honorable Steven J. DeBoy, Sr., Co-Chair
Joint Audit Committee
c/o Department of Legislative Services
90 State Circle
Annapolis MD 21401

Dear Senator Jones and Delegate DeBoy:

Thank you for the opportunity to respond to the Legislative Auditor's audit report for the period from March 1, 2006, through June 30, 2009. Before responding to the report and its recommendations, I would like to recognize Terry Gibson, Senior Auditor, and the other members of the auditing team for their professionalism and cooperation during their assignment to this agency.

The audit has been very informative and we are diligently making all necessary adjustments. We are confident that your upcoming election will be conducted with the usual professionalism, accuracy, and integrity that you have become used to in Maryland. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Linda H. Lamone".

Linda H. Lamone
State Administrator

cc: Bruce A. Myers, CPA, Legislative Auditor

Response to Legislative Audit Report

Submitted by

Linda H. Lamone, State Administrator

Maryland State Board of Elections

June 8, 2010

General Comments

Turnover of Key Personnel

During this audit period, the agency experienced significant turnover in the two financial positions and other senior management positions, and some of the resulting audit findings are the likely consequence of this turnover. First, there was significant turnover in the agency's two financial positions – the fiscal officer and the fiscal clerk. In a small agency such as SBE, the fiscal officer must also serve as the budget officer. Past employees in this position have had a background primarily as budget officers with little or no experience in financial management. In May 2009, The agency hired an experienced fiscal officer and certified public accountant as the agency's fiscal officer and now recognize the importance of selecting a candidate for this position who has a strong background in financial management. In addition to the turnover in the fiscal officer position, the fiscal clerk position also had three different individuals serving in that position during the audit period.

In addition, it should also be noted that other turnover in key positions within the agency during the last three years may have caused some of the audit findings. Our long tenured joint procurement officer and voting system director left SBE after nearly 20 years of service. During that time, procurement activity obviously had to continue, but without his specialized expertise, there was little procurement guidance available. Similarly, other key contract managers left the agency.

Contractual Claim

In the "Background" section of the audit report, the Legislative Auditor discussed the on-going contractual claim filed by the Office of the Attorney against the State's voting system vendor. In response to the independent reviews of the State's voting system, SBE took or required the vendor to take action on certain items, including requiring the vendor to make software and firmware modifications and implementing State information technology procedures and other best practices for information security systems. It is important to note that the contract claim will continue even though Election Systems & Software (ES&S) has acquired Premier Election Solutions. Premier's former parent company, Diebold, Inc., is responsible for this contract and its assets and liabilities. .

Additional SBE Actions

In addition to the actions outlined below, SBE will be creating an internal audit review committee. The committee will meet periodically throughout the year to ensure that changes required by the audit are made and consistently followed. This will help address the issues raised by turnover and ensure that the continued implementation of audit recommendations remain a central focus.

In response to the repeated and disputed findings concerning the oversight of the local boards of elections, SBE intends to request in upcoming budget submissions additional personnel to conduct the level of oversight identified by the Legislative Auditor. Additionally, SBE is considering requesting an additional position to coordinate the management of SBE's contracts. The complexity and size of SBE's current and future contracts and the repeat finding related to contract monitoring should justify this request.

Finding 1: SBE's procedures for monitoring the local boards to help ensure the propriety of statewide voter registration system data were not sufficient.

Agency Response: Before responding to the Legislative Auditor's specific finding and recommendations on SBE's procedures for monitoring the propriety of voter registration system data, the finding and related discussion fails to acknowledge SBE's extensive oversight activities of the voter registration system and data. Oversight is on-going, with a monthly review of critical data changes supplemented with other reviews that vary based on the election cycle.

SBE requires each local election director to review monthly critical data changes made in the voter registration system. On a monthly basis, a local election director obtains system output reports of critical system changes made during the previous month, randomly selects a specified number of records to review, and confirms that the changes to those records were proper and accurately performed. After completing this review, each local election director submits to SBE a report of his or her review.

Between elections, the voter registration data is regularly reviewed and when necessary, corrected by SBE staff. Examples are as follows:

1. SBE reviews scanned source documents¹ and compares them to the system transaction to validate the accuracy of the transaction.
2. SBE reviews records of individuals who have applied to register to vote but have not yet completed their registrations and verifies that the local boards of elections are processing files from other federal and State agencies that impact the voter registration data (*i.e.*, death notifications from the State Department of Health and Mental Hygiene and verification results from the Social Security Administration).
3. SBE conducts database analysis to ensure data entry conventions are being followed. Examples of the findings from this review are leading spaces and typographical errors in names and dates of birth.

The above reviews and the resulting corrections to voter registration records result in meaningful improvements to the database, which have a positive impact for voters and the election process. For example, an accurate database means that on election day when election judges search for the voter in the electronic pollbook, the voter will be found. Similarly, the corrections made to the records often result in a pending voter being switched to an active status, which in turn means the voter will vote a regular ballot instead of a provisional ballot.

Immediately after an election, the focus of the oversight switches to reviewing provisional and absentee voting data to ensure that voters' records accurately reflect what occurred during the election and the respective canvasses. Examples of corrections made during this review include voter history assigned to the wrong voter (because the election judge checked in the wrong voter) and inaccurate data entry during the processing of provisional ballot applications. This is an intense review process as this must occur before the election is "ended" in the voter registration system (typically 60 to 90 days after an election).

Recommendation 1a

Although SBE believes that the oversight activities of the Voter Registration Division are sufficient to monitor the propriety of critical changes to voter registration system data (*i.e.*, adding or deleting voter registrations), SBE agrees to increase the number of critical changes in the voter registration system that are reviewed by the local election directors. SBE will work with the local boards of elections to define an adequate but workable number of records to review on a monthly basis as it is important that the workload

¹ Local election officials scan records, such as voter registration applications and absentee ballot requests, into the statewide voter registrations system.

of the local boards of elections be considered when establishing requirements for reviewing critical changes to system data.

Recommendation 1b

In addition to increasing the number of critical changes reviewed on a monthly basis, SBE will require the local election directors to print the system output reports, mark the records verified, and send to SBE the annotated report. On receipt of these annotated reports, SBE will review and verify the propriety of the critical changes.

The audit report suggests that the number of critical changes to review should be dependent on the number of errors a local election director finds in his or her monthly review of critical changes. While SBE agrees that the discovery of errors in critical changes should trigger a review of additional critical changes, it is important to note that, during previous monthly critical change reviews, the local election directors validated the propriety of **all** of the critical changes that were reviewed. The only errors found during critical change reviews were typographical errors in data entry, and these were immediately corrected.

Recommendation 1c

By way of background, the Administrative Office of the Courts provides a list of individuals convicted of a felony to SBE. That list is provided to the local boards of elections which must make a determination whether each individual on the list is in fact a registered voter. If there are discrepancies, such as a wrong date of birth or misspelled name, a local board of elections may make a determination that the individual on the list provided by the Administrative Office of the Courts is not a registered voter.

From January 1, 2009 through June 30, 2009, a total of 776 voter registration records were cancelled due to felony conviction. SBE conducted a random statewide audit of the April 2009 report from the State's judiciary system, and of 40 records reviewed, 28 listed individuals were not registered and 12 individuals were correctly cancelled. The review conducted by the auditors identified seven voters who should have been removed from the voter registration system in February 2009 due to their felony conviction that same month. None of those individuals cast a vote after their felony conviction occurred.

As demonstrated by SBE's audit and the removal of 776 voters due to felony conviction, the local boards of elections are diligent in processing lists provided by the judicial branch. SBE believes that the expanded monthly audit verification described below will identify any local board of elections that is not promptly processing the lists or following procedures to remove voters who have been convicted of a felony. To ensure that all local boards of elections are properly removing voters who are no longer eligible to be registered and vote, SBE has incorporated into its monthly audit verification that the local boards of elections have cancelled individuals who have been convicted of a felony.

Recommendation 1d

Access to the voter registration system may only occur in the State or a local election office. Accordingly, election officials can and do exercise a great deal of control over access to the system. To ensure greater control over access to the voter registration system, the process of terminating access to the statewide voter registration system by individuals who are no longer employed by a local board of elections has been revised. While the local boards of elections are still required to follow the State's Information Technology Security Policy and Standards (Version 2.2, October 2009) and notify SBE within 24 hours of an employee's termination, the following changes are in the process of being implemented:

1. For the local boards of elections that are in the State personnel system, internal processes will permit the sharing of information about an employee's termination within SBE²;

² For the four local boards of elections that are not in the State personnel system, SBE must rely exclusively on the local boards of elections to notify SBE of individuals who are no longer employed by that local board of elections.

2. Each month, SBE provides each local board of elections a list of the existing users of the statewide voter registration system. The election director of each local board of elections is required to review this list, verify that the individuals listed are current employees, and sign and return the list. SBE immediately removes any individual who is no longer employed by that local board of elections; and
3. SBE will perform monthly audits to ensure that no transactions are attributable to the terminated employee after his or her date of termination.

Recommendation 1e

With respect to the one individual whose username and password was used after the individual's date of termination, SBE identified the changes attributable to this individual, and the changes were adding telephone numbers and absentee ballot mailing address. SBE reviewed the activities performed after the employee's termination date and validated that **all** of the activities were proper.

Additionally, the election director of the local board of elections where this occurred was notified and in response, presented to SBE a corrective action plan. The corrective action plan requires routine review and reporting of each employee's status, monitoring by supervisors of authorized users and password access, and on-going employee training on technical and security policies. SBE received initialed copies of the plans, attendance reports from employee training sessions, and timely monthly user access reports.

Finding 2: SBE had not obtained an audit of system controls over the Statewide voter registration system.

Agency Response: In response to the 2006 Audit, in early 2007, SBE attempted to obtain a SAS 70 audit through a solicitation under the CATS contract. However, the solicitation did not elicit any bids. At the direction of the Legislative Auditor, SBE considered reissuing the solicitation but was informed by the Department of Budget and Management (DBM) not to do so if the agency did not have sufficient funds for the audit. While SBE had budgeted funds for a SAS 70 audit, after consulting with other State agencies, it was determined that the cost of a SAS 70 audit would be significantly higher than originally budgeted. Further, DBM's Office of Information Technology advised that the SAS 70 audit was not in fact either a statutory or Office of Information Technology requirement.

Recommendations 2a - c

The current contract for the voter registration system software maintenance and data center hosting will end on December 31, 2010. There is insufficient time and resources to obtain a SAS 70 type audit this year and would not be cost effective given the imminent conclusion of the contract. However, SBE has already drafted two new solicitations: one for software maintenance and the other for data center hosting. Both of these solicitations include a requirement to perform SAS 70 type audits and take necessary actions to correct any deficiencies found through the audit.

Finding 3: Formal comprehensive reviews were not periodically conducted on each local board's compliance with election laws and regulations.

Agency Response: SBE strongly disagrees with this finding and the implication that SBE does not oversee and review the activities of the local boards of elections. Examples of SBE's oversight activities include:

Candidacy and Campaign Finance Division

1. During candidate filing periods, ongoing reviews of candidate data entered by the local boards of elections to ensure uniform data entry and compliance with state laws;
2. During candidate filing periods, monthly reviews of local board of elections' candidate data to ensure audio records are complete and sufficient for creating an audio ballot for voters with disabilities; and

3. At the start of candidate filing periods, in-person training sessions.

Voter Registration Division – This division employs a Manager of Data Integrity and Reports whose sole responsibility is to conduct data quality reviews of the statewide voter registration system, including:

1. Identification and when necessary, correction of data irregularities, such as numbers in text fields, typographical errors, and leading spaces;
2. Confirmation that verification results from the Social Security Administration are processed;
3. Review of records of individuals who have applied to register to vote but are not yet registered vote;
4. Perform and review results of voters who appear to be in the system more than once;
5. Verification that each local election director has completed the required monthly report showing his or her review of critical changes to the voter registration system data;
6. Ensuring that confidential records are handled in accordance with the Election Law Article;
7. Ensuring that voter registration documents are properly scanned and attached to the correct voter registration record;
8. Ensuring that notifications and notices are being processed and sent timely;
9. Verification that the post-election activities for municipal elections are performed;
10. Ensuring participation in training sessions; and
11. Conducting onsite training and provides assistance to the local boards of elections.

Voting System/Electronic Pollbook Division

1. Monitor and review the activities of the local boards of elections for all voting system operations. Each local board of elections is required to forward, at every stage of an election, a copy of its election database. By reviewing this database, SBE can verify that the local boards are following all relevant laws, regulations, and procedures. These reviews include verification that pre-election testing and loading of the ballot was timely completed, the correct number of voting units have been allocated to each polling place, and election results are tabulated accurately and timely;
2. Review the local implementation of spare unit deployment plans in case deployed equipment becomes unavailable for use;
3. Distribute voter turnout projections to guide voting unit deployment, which, as explained above, is verified by reviewing the election database; and
4. Create and distribute a detailed *Conducting the Election Guide* that provides step-by-step instructions on all voting system functions. By reviewing the election databases, SBE can verify that the local boards of elections followed the instructions provided in this guide.

On an ongoing basis, SBE is utilizing data from the electronic pollbook³ to monitor and manage the local boards as well as review the effectiveness and performance of election judges on election day. These reviews include:

1. Prior to each election, verifying the planned allocation of electronic pollbooks for each polling place considering the historical hourly turnout patterns for each precinct. SBE then collaborates with the local boards of elections to allocate equipment to minimize voter wait times;
2. Compiling and analyzing on-time performance statistics (the on time opening and closing of polling places) at the precinct, county, and statewide levels;
3. Reconciling voter check-ins recorded by the electronic pollbooks against “votes cast” data from the voting system and requiring the local boards of elections to reconcile or explain the variances;

³ The electronic pollbooks have been used statewide since the 2006 elections. Data is written to the event log on each electronic pollbook and uploaded to SBE on election night. The event log includes information about poll opening and closing, voter check-in transactions (voter ID, timestamp and type of ballot issued), ballots re-issued or canceled, periodic battery charge level, and hardware errors.

4. Calculating average voter check-in intervals by time of day for each polling place. This data is helpful in identifying problem areas, such as unacceptable voter wait times and election judge training deficiencies; and
5. Reviewing the data initial battery charge levels on election day to monitor local board of elections' compliance with equipment maintenance guidelines.

Information Technology Division

1. Conducting physical security inspections (both at random and annually);
2. Conducting information technology security audits;
3. Reviewing election day contingency plans;
4. Conducting network security review;
5. Periodically reviewing local board of elections' website for compliance with State requirements; and
6. Randomly and annually conducting employee background and security requirements.

Election Reform Division

1. Review of accessibility surveys for new polling places;
2. Review of polling place evaluations after each election;
3. Attending election judge training to ensure compliance with training curriculum;
4. Attending provisional and absentee ballot canvasses to ensure compliance with state laws, regulations, and procedures;
5. Publishing a bi-weekly bulletin of instructions, information, and reminders to the local boards of elections;
6. Conducting monthly election director conference calls to provide instructions, information, and clarification on compliance issues; and
7. Prior to each election, conducting a series of conference calls for counsel to the local boards of elections to provide an overview of important issues in preparation for each election.

In addition to the above activities, SBE has created and implemented a new Election Preparedness and Professional Development Program for local election directors, deputy directors, and staff. This program offers courses on voter registration, office management, public relations, and the election process as well as professional development topics. The State Administrator grants certification status to all local election directors, deputy directors, and staff who fulfill program requirements. Since the program began in 2009, three courses – Project Management, Voter Registration, and Law & Ethics – have been offered at various times, and all 24 local boards of elections and approximately 190 individuals have participated in the program. Additional courses will be developed and offered in the future.

In 2007, SBE received funding from the Pew Charitable Trusts' Make Voting Work project to develop a pilot post-election audit. With these funds, SBE contracted with two certified public accountants, a statistician, and public policy expert with experience in elections to assist SBE with developing audit standards to review the performance of the local boards of elections. After the 2008 election, SBE conducted the audit at three local boards of elections. The pilot audit provided SBE with information on the resources necessary to perform this type of audit at each local board of elections after each election.

It appears from this and prior audit reports from the Legislative Auditor that the only acceptable oversight program is comprehensive, on-site reviews of the local boards of elections. While SBE does not dispute that the standard set by Legislative Auditor is ideal, it is simply not feasible given this agency's current resources. In response to previous audits, SBE developed a plan to send to assigned local boards of elections designated staff members to audit certain areas and provide on-site training. However, there was simply insufficient time to have staff perform these on-site tasks and continue to perform their regular election-related duties.

Recommendation 3

As a result of the Legislative Auditor's finding in this audit, SBE intends to request additional positions to create an internal audit division. The employees of this division will be responsible for working with the SBE's subject matter experts to identify audit standards and conducting comprehensive, on-site reviews of the local boards of elections. In the meantime, however, SBE will continue to perform the oversight functions listed above and supplement these tasks with others as resources become available.*

Finding 4: At the 2009 fiscal year-end, SBE failed to report unfunded liabilities totaling \$2 million to the Comptroller of Maryland, as required.

Agency Response: The failure to report unfunded liabilities was an inadvertent omission and likely the result of a change of personnel in the fiscal officer position. When the omission was brought to our attention, Schedule F: Accounts Payable and Commitments from the Year-End-Closing package was completed and submitted to the General Accounting Division.

Recommendation 4a

In the future, SBE will properly report to the General Accounting Division any unfunded year-end liabilities during the year-end close out process.

Recommendation 4b

SBE is currently working the DBM to obtain funding the remaining unfunded liability.

Finding 5: Adequate internal controls were not established over cash receipts.

Agency Response: In response to this finding SBE has begun conducting reviews of cash receipts and has thus far have confirmed that there is no evidence of missing funds. Also, in response to this finding, the agency's standard operating procedures have been reviewed and updated. The procedures now require cash receipts to be deposited within one business day of collection to comply with the *Accounting Procedures Manual* and someone independent of the collection and accounting for collections performs the deposit verification. During deposit verification, the individual performing this task uses the cash register tape to verify the numerical continuity of transactions. Lastly, the employee who maintains the accounts receivable records no longer prepares the deposits or has access to any cash receipts.

Finding 6: SBE performed virtually no collection efforts on its accounts receivable and the related accounts receivable records were not adequately maintained.

Agency Response: It is important to note that the overwhelming majority of accounts receivable are from the local boards of elections, which are generally prompt in remitting payments.

A review of the accounts receivable records indicates that the records are inaccurate. Since 2006, receipts were not always processed correctly in FMIS to ensure that the corresponding receivable was credited. These records are in the process of being corrected using the DAFR 9760 Accounts Receivable Aging Report. A control account will be set up and will be used to ensure that the agency's detailed records have suitable documentation supporting the invoice.

If there is a need to institute collection efforts, SBE will use procedures in the State's Central Collection Unit's *Delinquent Accounts Handbook* as a guide for determining the proper procedures for submitting accounts for collection.

***Auditor's Comment:** In its response, SBE indicated it disagrees with this finding. Nevertheless, as stated in the finding, SBE developed a draft plan in May 2006 to review the local boards, which included 10 election management areas. Although we acknowledge that certain oversight of the local boards is conducted by SBE, these procedures were not comprehensive and did not include several areas addressed in the draft plan. Accordingly, we continue to believe that SBE should take the necessary actions to implement a process to conduct formal, comprehensive reviews of the local boards. For example, SBE could consider forming peer review teams, using local board personnel under SBE guidance, to conduct the reviews.

Finding 7: Controls over the processing of non-cash credit adjustments to accounts receivable were inadequate.

Agency Response: For all non-cash credit adjustments, SBE now uses a Journal Entry form that includes signatures of the staff members responsible for posting the entries and performing the supervisory review. For each adjustment, adequate documentation is attached to the Journal Entry form. The Director of Budget and Finance verifies that only authorized non-cash credit adjustments are posted to the accounts receivable records. Lastly, to provide for proper separation of duties, the access for the adjustments for the employee in the Candidacy and Campaign Finance Division will be removed. The employee in the Budget and Finance Division will no longer handle the deposits of cash receipts or have access to any collections.

SBE conducted a review of referenced non-cash credit adjustments and based on the limited documentation that was available, it appears that the incorrect entries were established as “A/R – Reduction of Expenditures,” instead of “A/R – Revenue.”

Finding 8: Proper internal controls have not been established over the processing of purchasing and disbursement transactions.

Agency Response: In mid-July 2009, the access for the employee who could initiate, approve, and release disbursement transactions for payments was modified. This employee can no longer initiate transactions. In March 2010, SBE reviewed its agency security with the Department of Information Technology, modified some of the profiles, and set up critical document paths.

Finding 9: SBE did not always obtain and review adequate documentation to support labor hours billed by contractors.

Agency Response: Following the 2006 Audit finding on this topic, SBE put into practice a consistent policy of requiring timesheets from all vendors and reviewing and signing off on those timesheets prior to paying invoices. For the two contracts at issue, SBE required that the contractor provide timesheets and those timesheets were received and reviewed by the appropriate staff. The omissions discovered in the audit were likely the result of record keeping shortcomings, not a failure to require the contractors to submit proper documentation to support labor hours billed. The importance of receiving, reviewing, and retaining this information has been reinforced with all of the agency’s contract managers.

While SBE agrees that the agency did not have documentation that the personnel listed on the billing had been approved by SBE, it has been SBE’s practice to carefully review and approve all personnel changes and new selections (including conducting interviews of potential hires). In the future, written approval of a contractor’s new personnel will be given and maintained.

Finally, SBE notes that the referenced \$733,000 contract ended in December 2004. In response to the previous audit report, SBE implemented significant changes to ensure sufficient documentation is received and reviewed to monitor contractual personnel. With very few exceptions noted in this audit, SBE met the requirements recommended by the auditor. However, a review of the expired contract was not completed. SBE continues to assert that it carefully monitored the contract, had performance measures in place, worked closely with the vendor, and is therefore confident that the money paid to the vendor was justified based on work completed. SBE disagrees that reviewing documentation of a contract that expired 5½ years ago is an efficient use of the agency’s limited time and resources.

Finding 10: SBE did not follow certain State requirements to technology procurement.

Agency Response: The audit report states that technical evaluations were not signed by the evaluators for the procurement of an election management system. Because SBE did not have a procurement officer at the time of this procurement, a management-level staff member was assigned to manage the procurement. While this individual is no longer on staff at SBE, the evaluation team members all recall signing technical evaluations for this procurement. In the future, all documentation related to technical evaluations will be retained in accordance with the appropriate record retention schedule.

With respect to the forms explaining why solicited vendors did not respond to a solicitation, it is the responsibility of the vendors under the Consulting and Technical Services (CATS) Task Order I to submit a form explaining why they did not submit a proposal. While the agency generally attempts to obtain the response forms from solicited vendors, staff members conducting future procurements will be required to follow-up with solicited vendors who have not submitted a form and remind them of their obligation to submit this form.

In response to the discussion about a required deliverable that was not completed although payment was made, SBE acknowledges that the deliverable (an improved electronic filing system) was not received during the initial audit period. However, due to the nature of elections and the constant changes in election law, the deliverables in the contract needed to be reprioritized to meet other requirements. With a major election in 2008, long term goals – including the improvement to the electronic filing system – were delayed for more immediate and pressing requirements and needs. In response to the audit, a process has been established to document changes in priorities and therefore, contractually required deliverables.

Finding 11: The firewall used to help secure the SBE headquarters local area network was not properly configured or monitored.

Agency Response: SBE has replaced the internal systems firewall with a new firewall. The configuration of the new firewall was accomplished with the assistance of the Department of Information Technology and a contract engineer.

The new firewall was set up with a direct interface to an automatic monitoring and reporting tool. As part of the installation, SBE established monitoring procedures in accordance with the Department of Information Technology's policy requiring routine review and analysis of system reports and logs.

Finding 12: SBE had not recovered indirect costs for a federal grant because it had not prepared an indirect cost recovery plan, as required by DBM.

Agency Response: SBE will comply with DBM's policy requiring an indirect cost recovery plan. SBE's current employees were unaware that DBM required an agency receiving federal funds to prepare an indirect cost recovery plan.

DBM is and has been aware that SBE receives federal funds. Federal funds have been appropriated in SBE's budget since FY 2003, and in accordance with budget instructions for FY 2010, SBE submitted DBM-DA-27 reporting federal funds and that no indirect costs have been recovered. Additionally, the Legislative Auditor did not raise this issue in its previous audit. Although there has been significant transition in the fiscal officer, there has been no transition in the position responsible for compliance with the federal Help America Vote Act (the legislation authorizing the federal funds), and this individual was never informed about DBM's policy.

Finding 13: Adequate controls and accountability were not maintained over equipment.

Agency Response: Since the last audit, SBE has been in the process of establishing a single system for equipment inventory control. This system will include all State equipment located at SBE's office and at the 24 local boards of elections. SBE agrees that not all equipment is in the detailed inventory system. However, to date, SBE has physically placed asset tags on 95% of all equipment and entered the equipment into the inventory system. The remaining equipment will be tagged and added to the system by the end of July 2010.

SBE disagrees with the finding that documentation related to at least some of the physical inventories does not exist. The local boards of elections conduct periodic physical inventories of the voting units and electronic pollbooks as part of the pre-election logic and accuracy testing and routine maintenance. These documents are completed and maintained by the local boards of elections and are completed for each election.

SBE agrees to maintain documentation on the inventory process it conducts, establish and maintain an equipment control account on a current basis, and periodically reconcile the account balance to the aggregate balance of the related detail records. SBE also agrees to submit annual reports of fixed assets each fiscal year to Department of General Services.

Finding 14: Employee tuition and training expenses were not approved by DBM, as required by State regulations, and certain expenses were inappropriately paid and subsequently recovered.

Agency Response: SBE agrees to submit to DBM for approval all out-service training and educational tuition reimbursements over \$2,500. If SBE chooses to implement and budget a Tuition Reimbursement Plan as part of career development for its employees, one of the requirements of this plan will be that reimbursement will be made only upon satisfactory completion of the course.

AUDIT TEAM

Joshua S. Adler, CPA, CFE
Audit Manager

Terry S. Gibson
Senior Auditor

Amanda L. Roller
Information Systems Senior Auditor

Jason M. Goldstein
Shalom N. Warburg
Staff Auditors

Jacquelyn M. Tindall
Information Systems Staff Auditor