Audit Report

Department of Health and Mental Hygiene
Laboratories Administration

July 2012

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

Bruce A. Myers, CPA
Legislative Auditor

July 26, 2012

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

Ladies and Gentlemen:

We have audited the Department of Health and Mental Hygiene – Laboratories Administration for the period beginning March 16, 2009 and ending October 23, 2011. The Administration provides laboratory testing to assist physicians and health officials in the prevention, diagnosis, and control of human diseases.

Our audit disclosed that the Administration did not have adequate accountability and control over its laboratory cash receipts. In addition, controls were not sufficient over the controlled dangerous substance (CDS) permits to prevent improper permits from being issued.

The Department of Health and Mental Hygiene's response to this audit, on behalf of the Administration, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by the Administration.

Respectfully submitted,

Thomas J. Barnickel III, CPA
Acting Legislative Auditor

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Background Information

Agency Responsibilities

The Laboratories Administration, a unit of the Department of Health and Mental Hygiene (DHMH), is responsible for providing laboratory testing to assist physicians and health officials in the prevention, diagnosis, and control of human diseases. According to the State's records, during fiscal year 2011, the Administration's central laboratory in Baltimore City and its two regional laboratories conducted approximately 10.2 million laboratory tests, and the Administration's expenditures totaled approximately $23.9 million.

Destruction of Blood Lead Test Records

According to a May 5, 2011 report issued by the DHMH Office of the Inspector General (OIG), blood lead test records that may have been under subpoena were destroyed by certain Administration employees during the period from January through March 2011. These records, held by the Administration in both paper and electronic format (generally as duplicates), were often requested or subpoenaed by attorneys on behalf of their clients. As a large backlog of such requests had accumulated, the OIG determined that both electronic and paper records were destroyed in order to avoid responding to attorney requests.

According to the OIG report, Administration management believed that the destruction of the records was proper. Specifically, in June 2010, its legal counsel advised that, as a medical laboratory, the Administration was not subject to record retention requirements of a medical provider. Based on this advice, management concluded that the Administration was not required to retain records for more than 3 years and that older records, which had previously been retained for up to 22 years, could be destroyed. However, management had not informed legal counsel that some of the records could have been under subpoena. Subsequent to the OIG investigation, the Administration was able to restore the destroyed electronic blood lead test records and once again began responding to requests for records.

Based on the results of this investigation, in May 2011, the OIG notified the Office of the Attorney General—Criminal Division about this incident. A referral to the Criminal Division does not mean that a criminal act has actually occurred or that criminal charges will be filed.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the three findings contained in our preceding audit report dated September 30, 2009. We determined that the Administration satisfactorily addressed these findings.

Findings and Recommendations

Cash Receipts

Finding 1
The Administration lacked initial accountability and control over its laboratory cash receipts.

Analysis
The Administration lacked initial accountability and control over its laboratory cash receipts, which primarily related to laboratory test fees, and which totaled approximately $5.4 million during fiscal year 2011. Specifically, we noted that checks received were not recorded or restrictively endorsed immediately upon receipt by the employee who received the checks. Instead, this employee logged the checks and restrictively endorsed them after a second employee, who received copies of the checks, provided the accounting codes. This is particularly significant because, in the second employee's absence, the checks were forwarded to another employee who secured the checks pending the second employee's return to work. Consequently, collections could remain unrecorded and unendorsed or be misappropriated without detection.

In addition, because checks were not recorded immediately upon receipt, management could not ensure that deposits were transferred in a timely manner to the Department of Health and Mental Hygiene's (DHMH) general accounting unit for deposit.

The Comptroller of Maryland's *Accounting Procedures Manual* requires the recording of receipts and restrictive endorsement of checks immediately upon receipt. The *Manual* also requires that receipts must be deposited no later than the first working day after the day of receipt.

Recommendation 1
We recommend that the Administration

a. restrictively endorse and record cash receipts immediately upon receipt, and
b. ensure that cash receipts are forwarded to the DHMH general accounting unit for deposit in a timely manner.

Controlled Dangerous Substance Permits

Finding 2
Controls over controlled dangerous substance permits were not sufficient to prevent improper permits from being issued.

Analysis
Adequate controls were not established over the controlled dangerous substance (CDS) permit database. Specifically, an employee had access to the database's automated mail log, which initiated the permit issuance process, as well as the capability to issue CDS permits on the database. We were advised by the Administration that this employee's job duties required unrestricted access to allow for corrections to be processed on the database. Nevertheless, controls should be established, such as an independent review procedure, to help prevent improper permits from being issued. According to Administration's records, this employee processed 644 permits during fiscal year 2011. Our test of 10 of these permits did not disclose any improprieties.

Additionally, the Administration did not require researchers renewing their CDS permits to provide information documenting their continued need for a permit. While a researcher questionnaire, which describes the research being conducted and security procedures in place, was required when applying for a new researcher permit, it was not required to renew the permit. The process for researchers differs from other practitioners (such as physicians) whose continued eligibility is verified by confirmation of a valid license to practice. Accordingly, the Administration had no assurance that researcher applicants requesting to renew their CDS permits were currently eligible for the CDS permits.

CDS permits are issued to businesses and practitioners (such as physicians) as authorization to acquire and handle any drug classified by the federal government as a controlled dangerous substance, and are renewed every two years. According to the State's records, approximately 18,000 CDS permits were issued for fiscal year 2011, of which 110 were issued to researchers who were renewing their permits. Permit fees range between $30 and $120 depending on the licensing period.

Recommendation 2
We recommend that the Administration

a. establish procedures to ensure that CDS transactions are reviewed, at least on a test basis, by supervisory personnel who do not have access to make changes on the CDS permit database and that such reviews are documented; and

b. verify the credentials of researchers renewing their applications prior to issuing their CDS renewal permit.

Audit Scope, Objectives, and Methodology

We have audited the Laboratories Administration of the Department of Health and Mental Hygiene for the period beginning March 16, 2009 and ending October 23, 2011. 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 the Administration's financial transactions, records and internal controls, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the status of the findings included 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 cash receipts, including laboratory testing fees and control dangerous substance permits and related fees; accounts receivable; and corporate purchasing cards. Our audit procedures included inquiries of appropriate personnel, inspection of documents and records, and observations of the Administration'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 certain support services provided to the Administration by the Department's Office of the Secretary and related units. These support services (such as payroll, maintenance of accounting records and related fiscal functions) are included within the scope of our audit of the Office of the Secretary.

Our audit did not include an evaluation of internal controls for federal financial assistance programs and an assessment of the Administration'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 the Administration.

The Administration'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 the Administration's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes a finding regarding a significant instance of noncompliance with applicable laws, rules, or regulations. Another less significant finding was communicated to the Administration that did not warrant inclusion in this report.

The response from the Department of Health and Mental Hygiene, on behalf of the Administration, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Department regarding the results of our review of its response.

APPENDIX

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 – Joshua M. Sharfstein, M.D., Secretary

July 24, 2012

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

Dear Mr. Barnickel:

Thank you for your letter regarding the draft audit report for the Department of Health and Mental Hygiene – Laboratories Administration. Enclosed you will find the Department's response and plan of correction that addresses each audit recommendation. I will work with the Administration Director and Deputy Secretary to promptly address the audit exceptions. In addition, the Office of 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 Thomas V. Russell of my staff at (410) 767-5862.

Sincerely,

Joshua M. Sharfstein, M.D.
Secretary

Enclosure

cc: Frances B. Phillips, R.N., M.H.A., Deputy Secretary, Public Health Services, DHMH
Shawn Cain, Chief of Staff, Deputy Secretary, Public Health Services, DHMH
Patrick D. Dooley, Chief of Staff, Office of the Secretary, DHMH
Thomas V. Russell, Inspector General, DHMH
Ellwood L. Hall, Jr., Assistant Inspector General, DHMH
Lisa J. Ellis, Chief Administrative Officer, DHMH
Robert A. Myers, Ph.D., Director, Laboratories Administration, DHMH
Kenneth N. Keys, Jr., Fiscal Administrator, Laboratories Administration, DHMH

Findings and Recommendations

Cash Receipts

Finding 1
The Administration lacked initial accountability and control over its laboratory cash receipts.

Auditor's Recommendation 1
We recommend that the Administration

a. restrictively endorse and record cash receipts immediately upon receipt, and
b. ensure that cash receipts are forwarded to the DHMH general accounting unit for deposit in a timely manner.

Administration's Response 1
We concur with the auditor's finding and recommendation.

a. All checks will be endorsed immediately upon receipt. All checks will be logged entirely regardless if the PCA and agency object codes are unknown. If any of the codes are unknown, a photocopy of the check will be made and forwarded to the billing unit employee for determining what lab test and code the check was for. This information will be noted on the photocopy and returned to the first employee. The first employee will enter the missing PCA and agency object codes on the log. The log will then be sorted in PCA code and agency object code order for calculating the total for each code for deposit purposes.

If the first employee is on leave, the unopened checks will be given to the Procurement Officer who will endorse the checks immediately and create the log of checks received for that day. Photocopies of all checks will be given to the billing employee for determining what types of lab tests were performed and the PCA and agency object codes. The original checks will remain with the Procurement Officer. When the lab test type and coding information is received from the billing employee, the Procurement Officer will complete the log with the correct codes and sort it for deposit. If the Procurement Officer is on leave as well as the first employee, the checks will be given to the Fiscal Administrator who will process the checks for deposit.

b. The checks and log will be taken to DHMH General Accounting for deposit on the same day that the checks are received.

Completion Date for Finding 1 – February 28, 2012

Controlled Dangerous Substance Permits

Finding 2
Controls over controlled dangerous substance permits were not sufficient to prevent improper permits from being issued.

Auditor's Recommendation 2
We recommend that the Administration

a. establish procedures to ensure that CDS transactions are reviewed, at least on a test basis, by supervisory personnel who do not have access to make changes on the CDS permit database and that such reviews are documented; and

b. verify the credentials of researchers renewing their applications prior to issuing their CDS renewal permit.

Administration's Response 2
We concur with the auditor's finding and recommendation.

a. The Administration has implemented a report to show all transactions created by the employee who has unlimited access to the CDS database. These transactions will be reviewed and documented by the Deputy Chief or Chief of the Division of Drug Control on a test basis.

b. The Administration has modified the CDS application requiring that a Researcher's Questionnaire be completed each time researchers apply for their CDS renewal permits. The researcher's credentials will be verified prior to issuing their CDS renewal permit.

Completion Date for Finding 2 – June 30, 2012

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