

Audit Report

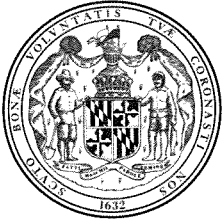
Office of People's Counsel

June 2014



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 19, 2014

Thomas J. Barnickel III, CPA
Legislative Auditor

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 Office of People's Counsel (OPC) for the period beginning February 14, 2011 and ending January 8, 2014. OPC is an independent State agency that represents Maryland's residential consumers of certain regulated services (including electricity, natural gas, and telephone) relating to matters and proceedings before the Public Service Commission and the courts.

Our audit disclosed that the requests for proposals (RFP) issued by OPC for consulting contracts did not specify the relative importance of evaluation components in the contract award process as required by State procurement regulations. As a result, OPC could not fully demonstrate that the contract awards were the most advantageous considering both price and technical components. During the period from July 1, 2012 through January 8, 2014, OPC used the RFP process to award 25 consulting contracts totaling \$865,000.

OPC'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 OPC.

Respectfully submitted,

A handwritten signature in black ink that reads "Thomas J. Barnickel III".

Thomas J. Barnickel III, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Office of People's Counsel (OPC) is an independent State agency that represents Maryland's residential consumers of certain regulated services (including electricity, natural gas, and telephone). OPC litigates on behalf of consumers and their interests relating to matters and proceedings before the Public Service Commission and the courts. According to the State's records, OPC's expenditures were approximately \$3.5 million during fiscal year 2013.

Findings and Recommendations

Contract Procurement

Finding 1

The requests for proposals issued by the Office of People's Counsel (OPC) for consulting contracts did not specify the relative importance of evaluation components in the contract award process.

Analysis

The requests for proposals (RFP) issued by OPC for consulting contracts did not indicate the relative importance of evaluation components in the contract award process. As a result, OPC could not fully demonstrate how the components of the RFP were evaluated when awarding the contracts and whether the contract awards were the most advantageous to the State considering both technical and price components.

We tested nine consulting services contracts totaling \$519,360, which were awarded during the period July 1, 2012 through January 8, 2014. For all contracts tested, the related RFP generally included several factors in the technical component (such as, references, qualifications, industry experience) as well as price without indicating the relative importance of each component. Accordingly, OPC did not document how the components were considered when selecting a vendor. Rather, OPC indicated in written justifications that the awards were based on past testimonial experience and industry expertise, which did not necessarily relate to all of the components included in the RFP. State procurement regulations require that requests for proposals include the evaluation components that will be used in the selection of a vendor and an indication of the relative importance of each component to be considered in the award.

OPC awards consulting contracts for expert witness assistance related to specific litigation cases. During the period July 1, 2012 through January 8, 2014, OPC used the competitive bid procurement process and awarded 25 consulting services contracts totaling \$865,000. As of January 8, 2014, according to OPC's records, payments on these contracts totaled approximately \$732,000.

Recommendation 1

We recommend that OPC

- a. indicate the relative importance of each evaluation component in its RFP, as required; and**
- b. document how the components were evaluated when awarding the contracts.**

Audit Scope, Objectives, and Methodology

We have audited the Office of People's Counsel (OPC) for the period beginning February 14, 2011 and ending January 8, 2014. 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 OPC's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. The areas addressed by the audit included procurements, disbursements, and payroll.

To accomplish our objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of OPC's operations, and tests of transactions. We also performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

OPC'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.

Our audit did not disclose any conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect OPC's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our audit disclosed a significant instance of noncompliance with applicable laws, rules, or regulations.

OPC'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 OPC regarding the results of our review of its response.

APPENDIX

PAULA M. CARMODY
PEOPLE'S COUNSEL

THERESA V. CZARSKI
DEPUTY PEOPLE'S COUNSEL

STATE OF MARYLAND



OFFICE OF PEOPLE'S COUNSEL

6 Saint Paul Street, Suite 2102
Baltimore, Maryland 21202
(410) 767-8150 (800) 207-4055
FAX (410) 333-3616
WWW.OPC.STATE.MD.US

ASSISTANT PEOPLE'S COUNSEL

WILLIAM F. FIELDS
PETER SAAR
GARY L. ALEXANDER
RONALD HERZFELD
GREGORY T. SIMMONS
JOSEPH G. CLEAVER
MOLLY G. KNOLL
JACOB M. OUSLANDER

June 16, 2014

VIA HAND DELIVERY AND ELECTRONIC DELIVERY

Thomas J. Barnickel, III, Legislative Auditor
State of Maryland
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, Maryland 21201

Dear Mr. Barnickel:

Enclosed please find the Office of People's Counsel responses to the draft Legislative Auditor's Report for the period beginning February 14, 2011 through January 8, 2014. The Office has already instituted changes to its procedures to address certain concerns identified in the audit

I wish to thank you and your staff for the manner in which the audit was conducted and for the constructive recommendations that were made as a result of the audit. If you have any questions or need additional information, please contact me at 410-767-8162 or the Office Administrator, Seva Diakoparaskevas, at 410-767-8165.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paula M. Carmody".

Paula M. Carmody
People's Counsel

PMC:eom
Enclosure

cc: Seva Diakoparaskevas, Administrator

**Maryland Office of People's Counsel
Responses to Findings and Recommendations of Draft Audit Report
Period February 14, 2011 through January 8, 2014**

Contractual Services

Finding 1

The requests for proposals issued by the Office of People's Counsel (OPC) for consulting contracts did not specify the relative importance of evaluation components in the contract award process.

Recommendation 1

We recommend that OPC

- a. indicate the relative importance of each evaluation component in its RFP, as required; and**
- b. document how the components were evaluated when awarding the contracts.**

OPC Response:

OPC agrees with the finding and related recommendations. The Office has already instituted changes in its documentation procedures for consultant RFPs and evaluation of responses.

OPC is an independent agency that represents the interests of residential utility consumers of regulated utility services in matters before the Maryland Public Service Commission, federal agencies and courts. In addition to the Maryland People's Counsel and Deputy People's Counsel, who are attorneys, the Office has several experienced attorneys who primarily represented the Office in regulatory litigation. Since the Office does not have technical staff, and must address a wide variety of accounting, economic and engineering issues in electric, gas, telecommunications and provide water proceedings, the Office must retain the services of expert consultants to provide technical assistance and expert witness testimony in regulatory proceedings. Therefore, in almost all instances, the contracts entered into by the Office are for consultant services on behalf of OPC in regulatory litigation. This was the case for the contracts referenced in the draft

audit report. Thus, while certain documentation may have been lacking in the consultant files reviewed, there is no doubt that the consultants were retained to provide expert witness services in Public Service Commission proceedings on behalf of residential ratepayer interests, and that they provided these services, including technical assistance and expert testimony in complex utility cases, subject to supervision by experienced attorneys in the Office. However, the Office understands the importance of proper documentation, and changed its documentation procedures for RFPs and evaluations in March 2014. These revisions are in writing and have been provided to all OPC attorneys and administrative staff involved in the consultant RFP and contracting process.

AUDIT TEAM

Joshua S. Adler, CPA, CFE
Audit Manager

Jonathan H. Finglass, CPA
Senior Auditor