

Audit Report

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**Board of Public Works  
Interagency Committee on School Construction**

December 2009

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**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

December 10, 2009

**Bruce A. Myers, CPA**  
Legislative Auditor

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

Ladies and Gentlemen:

We have audited the Board of Public Works – Interagency Committee on School Construction (IAC) for the period beginning February 1, 2006 and ending March 25, 2009. IAC supervises and provides funding for public school construction in Maryland, subject to the Board of Public Work's approval.

Our audit disclosed that the IAC had not pursued recovery of the State's financial contribution toward construction of former school properties that were subsequently sold or leased by the local jurisdictions, including at least \$3.2 million identified and commented upon in our two preceding audit reports. In addition, the IAC did not maintain, on a current basis, adequate records that identified all such properties and the repayment status of funds due to the State.

Our audit also disclosed that the IAC had not conducted required maintenance inspections for periods in excess of six years for 269 public schools currently in use. Furthermore, certain construction project closeout procedures were not performed timely to identify funds potentially owed to the State by the local jurisdictions.

IAC'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 IAC.

Respectfully submitted,

Bruce A. Myers, CPA  
Legislative Auditor



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

## **Background Information**

### **Agency Responsibilities**

In accordance with the provisions of the Education Article, Section 5-301 of the Annotated Code of Maryland, the State established a program to aid the counties and Baltimore City with respect to certain public school construction projects and capital improvements, which are subject to the approval of the Board of Public Works (BPW). BPW has adopted regulations for the administration of the school construction program, which provide for the establishment of an Interagency Committee on School Construction (IAC). The IAC consists of the Secretary of the Department of Planning, the Secretary of the Department of General Services, and the State Superintendent of Schools, or their respective designees, and two public members appointed by the President of the Senate and the Speaker of the House. According to its records, during fiscal year 2008, the IAC disbursed approximately \$361 million in capital funds for public school construction projects, and its operating expenditures totaled approximately \$18.5 million, including \$17 million for the Aging Schools Program, which provides funds (without any local match) for capital improvements and repairs to existing schools.

### **Status of Findings From Preceding Audit Report**

Our audit included a review to determine the status of the seven findings contained in our preceding audit report dated September 6, 2006. We determined that IAC satisfactorily addressed four of these findings; the remaining three findings are repeated in this report.

# Findings and Recommendations

## Recovery of State Funds

### **Finding 1**

**The Board of Public Works – Interagency Committee on School Construction did not adequately pursue recovery of State funds, totaling at least \$3.2 million, identified in our two preceding audit reports.**

### **Analysis**

The Board of Public Works – Interagency Committee on School Construction (IAC) did not adequately pursue recovery of at least \$3.2 million due the State, relating to former school properties in which the State had made a financial contribution, that were subsequently sold or leased. In addition, the IAC did not maintain adequate records related to all such properties. State regulations specify that the State may recover, with BPW approval, a portion of the proceeds received by a jurisdiction for the sale or lease of former school properties if the State has made a financial contribution toward construction of the school. We noted the following conditions:

- In our two preceding audit reports, we noted that the IAC conducted a review of former school properties and identified one county that owed the State at least \$3.2 million for a portion of the proceeds received by the county for the lease or sale of 17 former school properties in which the State had a financial interest. We also commented that the IAC had not pursued recovery of these funds, and our current audit disclosed that, as of May 31, 2009, the IAC had still not recovered the \$3.2 million even though its records generally indicate that BPW approvals for recovery by the State had previously been obtained (some dating back more than 20 years). We were advised by the IAC's management that the county has disputed the repayment of these funds. In a letter, dated March 31, 2008, the IAC rebuffed the arguments raised by the county for non-payment. However, the IAC had not taken any further action to recover these funds.
- The IAC did not maintain, on a current basis, adequate records identifying former school properties that had been closed, sold, and/or leased in all jurisdictions where the State had made a financial contribution, and which disclosed the repayment status of funds due to the State. At our request, the IAC prepared a schedule of such properties; this schedule included 25 properties in which the State had made financial contributions totaling approximately \$4.5 million. However, our review disclosed that the schedule

did not include 6 former school properties for which the State's financial contribution totaled approximately \$910,000. This schedule also did not include several other properties identified during our preceding audit, for which the IAC had not determined the amount of the State's financial contribution. The IAC was also unable to document the repayment status for 7 former school properties included in the schedule, for which the State's financial contribution totaled approximately \$560,000.

According to the IAC's records, the Office of the State Treasurer received approximately \$193,000 during fiscal years 2007 through 2009 from the sales of three former schools.

### **Recommendation 1**

**We recommend that the IAC**

- a. take immediate action to collect amounts owed to the State applicable to former school properties in which the State has made a financial contribution, including the aforementioned \$3.2 million (repeat); and**
- b. maintain, on a current basis, adequate records identifying all former school properties, including those properties that have been closed, sold and/or leased, in which the State has made a financial contribution, and the repayment status.**

## **Maintenance Inspections**

### **Finding 2**

**The IAC had not timely performed required maintenance inspections of numerous State public schools currently in use. In addition, corrective action plans were not obtained timely from certain local education agencies (LEAs) that had unsatisfactory inspections.**

### **Analysis**

The IAC had not conducted maintenance inspections for numerous public schools for extended periods, and did not timely obtain documented corrective action plans from certain LEAs, as required. State regulations require the IAC to annually rate the maintenance conditions at selected schools in each LEA. To assess the condition of schools, the IAC has a target to perform maintenance inspections at all schools during a six-year cycle. Related policies adopted by the IAC require that any LEA that operates a school that receives an unsatisfactory rating in any inspection category submit a corrective action plan, stating how and when the deficiencies will be resolved, to the IAC within 30 days of receiving the inspection results. Specifically, we noted the following conditions:

- According to the IAC’s records of maintenance inspections, which we tested and found to be reliable, as of June 30, 2008, the IAC had not conducted maintenance inspections for 269 (21 percent) of the 1,255 currently operating State public schools for periods ranging from 6 to 18 years.
- The IAC did not always obtain, in a timely manner, documented corrective action plans from LEAs that received unsatisfactory ratings related to maintenance inspections conducted during fiscal years 2007 and 2008; ten schools received unsatisfactory ratings during each of these fiscal years. Our test of these 20 schools disclosed that, for 7 of these schools, the IAC did not receive the corrective action plans for periods ranging from 5 to 11 months after the LEAs were notified by the IAC of the inspection results. A similar condition was commented upon in our preceding audit report.

**Recommendation 2**

**We recommend that the IAC**

- timely conduct maintenance inspections, as required by regulation, of all State public schools; and**
- take appropriate follow-up action to obtain corrective action plans from all applicable LEAs as required (repeat).**

**Closeout of School Construction Projects**

**Finding 3**  
**Construction project closeout documents, which help enable the IAC to identify amounts potentially due to the State, were not obtained from LEAs in a timely manner.**

**Analysis**

The IAC did not obtain, in a timely manner, construction project closeout documents, including a final cost summary and certificate of completion, from LEAs applicable to completed school construction projects. As a result, amounts owed to the State (such as for construction items that were not part of the approved scope of work) by the LEAs could remain unidentified and uncollected for extended periods.

Our test of 10 school construction projects, for which the IAC had disbursed State funds totaling approximately \$142 million, disclosed that, for 5 projects tested for which State funding totaled \$36.5 million, the IAC had not received the aforementioned documents even though the final disbursement of State funds

occurred from 2 to 15 years earlier. For another project tested, with related State funding totaling approximately \$12 million, the closeout documents were not received by the IAC until three years after the project was completed and accepted by the applicable LEA. A similar condition was commented upon in our preceding two audit reports dating back to March 26, 2003.

State regulations require LEAs to submit documentation of total project costs to the State within 180 days of project completion and acceptance. IAC's administrative closeout procedures cannot be completed until all closeout documentation has been received.

### **Recommendation 3**

**We recommend that the IAC**

- a. obtain closeout documentation for the aforementioned five projects, and ensure that all LEAs submit required project closeout documentation within 180 days of final payment to the contractor and LEA acceptance for all projects (repeat); and**
- b. upon obtaining the required documentation, promptly complete the administrative closeout process and identify and collect any amounts owed to the State (repeat).**

## **Cash Receipts**

### **Finding 4**

**The IAC lacked adequate controls over its cash receipts.**

### **Analysis**

The IAC lacked adequate controls over its cash receipts. Specifically, an employee independent of the IAC's cash receipts functions did not verify that all recorded collections were deposited. In addition, the employee who maintained the accounts receivable records (applicable to refunds due to the IAC from certain LEAs) also received the related refund payments.

As a result of these conditions, the IAC lacked assurance that all incoming cash receipts were deposited. During the period from July 1, 2008 to March 31, 2009, and during fiscal year 2008, the IAC had recorded cash receipts totaling approximately \$252,000 and \$366,000, respectively.

**Recommendation 4**

**We recommend**

- a. that an employee independent of the IAC's cash receipt functions verify that all recorded collections are deposited, and**
- b. that the employee who maintains the IAC's accounts receivable records not have access to cash receipts.**

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

## **Audit Scope, Objectives, and Methodology**

We have audited the Board of Public Works – Interagency Committee on School Construction (IAC) for the period beginning February 1, 2006 and ending March 25, 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 State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the IAC's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. The areas addressed by the audit included capital funds used to finance the cost of public school construction and renovation projects, school maintenance inspections, construction project closeout procedures, payroll, and cash receipts. We also determined the status of the findings contained in our preceding audit report on the IAC.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the IAC'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.

IAC'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 IAC's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes conditions regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to the IAC that did not warrant inclusion in this report.

The IAC'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 the IAC regarding the results of our review of its response.

## APPENDIX

STATE OF MARYLAND  
PUBLIC SCHOOL CONSTRUCTION PROGRAM  
200 W. BALTIMORE STREET  
BALTIMORE, MARYLAND 21201  
410-767-0617

DAVID G. LEVER  
EXECUTIVE DIRECTOR  
NANCY S. GRASMICK  
CHAIRPERSON



MARTIN O'MALLEY  
GOVERNOR

INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION

December 9, 2009

Mr. Bruce A. Myers, CPA  
Legislative Auditor  
Department of Legislative Services  
Office of Legislative Services  
Maryland General Assembly  
301 West Preston Street, Room 1202  
Baltimore MD 21201

Dear Mr. Myers:

We have received and reviewed the draft audit report dated November 19, 2009 pertaining to the fiscal/compliance audit of the Public School Construction Program (PSCP) for the period beginning February 1, 2006 and ending March 25, 2009.

The Legislative Auditor's recommendations to improve the operations of this agency are always welcomed and appreciated.

As requested, we are providing you with our responses to the recommendations made. A hard copy will follow.

If you have any questions, please contact Bob Crocetti, our Director of Finance, at (410-767-0612) or myself at (410-767-0610).

Sincerely,

A handwritten signature in black ink, appearing to read "David G. Lever".

David G. Lever, R.A., D.A.  
Executive Director

cc: Dr. Nancy S. Grasmick  
Ms. Joan Schaefer  
Mr. Robert C. Crocetti

PUBLIC SCHOOL CONSTRUCTION PROGRAM  
LEGISLATIVE AUDIT REPORT  
AGENCY RESPONSES  
December 9, 2009

Finding 1

**Response:**

Since the prior Legislative Audit (culminating in January, 2006), the IAC has executed agreements between the State and local jurisdictions transferring the assumption of outstanding bond debt (total \$470,000) from the State to local jurisdictions. Additionally, the IAC has received payments from local jurisdictions in the amount of \$193,000 representing the State share of sale/lease proceeds from surplus school properties to which the State has made a financial contribution. The PSCP has referred the collection of the remaining amounts totaling \$3.2 million owed to the State by Montgomery County to legal counsel, who, in consultation with BPW legal staff is reviewing various options for final resolution, including arbitration.

The IAC agrees that records should be maintained, on a current basis, identifying all surplus school properties for which the State has made a financial contribution noting the repayment status of the same. Based on preliminary discussions with the Legislative Auditors, the Public School Construction Program prepared and implemented these records prior to completion of the current Legislative audit.

Finding 2

**Response:**

- a. We disagree that the IAC did not timely perform maintenance inspections of Maryland public schools. We believe that the PSCP has diligently carried out the maintenance inspection program since it was transferred from the Department of General Services to the PSCP at the beginning of FY 2007. From FY 1981 through FY 2006, the maintenance surveys were performed for the IAC by the Department of General Services, with approximately 100 school facilities assessed each year by a single inspector.<sup>1</sup> Beginning in FY 2007, this function was transferred to the Public School Construction Program. With two full-time school maintenance inspectors, the PSCP established an

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<sup>1</sup> From 1993 to 2003, the inspections fell under the Public School Construction/Community College section of the Project Management and Design Division of the Office of Facilities, Design & Construction. From 2004 to 2006, they fell under the Maintenance Engineering Division of the Office of Facilities, Design & Construction.

internal goal of carrying out approximately 230 inspections per year, a schedule that would allow each school in Maryland to be inspected at least once in every six year period. For FY 2007 and FY 2008, the PSCP exceeded its annual goal by inspecting a total of 473 schools, exclusive of re-inspections of ten schools that had received a rating of Not Adequate or Poor in the previous inspection. In FY 2009, mandatory budget reductions that affected all State agencies led the PSCP to reduce the number of inspections from a target of 234 (plus 12 re-inspections) to 138 (plus seven re-inspections). Please note that as a small agency, the only areas within which the PSCP can make reductions without losing positions is in the mileage and other operating costs associated with the maintenance inspectors and the auditors. Similarly in FY 2010, the original goal of inspecting 239 schools was reduced in August 2009 to 182, exclusive of 5 re-inspections, in order to accommodate further mandated budget reductions. Anticipating that further budget reductions may occur during the fiscal year, the PSCP has scheduled its inspections so that an additional reduction in the number of inspections, if necessary, can take place in the early part of calendar 2010 without compromising the overall intent of the program.

If the number of inspections in FY 2007 and FY 2010 had not been reduced to a total of 793 (exclusive of 22 re-inspections) as a result of budget reductions, the PSCP would have inspected 946 schools by the close of FY 2010. Barring reductions in FY 2011 and FY 2012, the agency would have been on schedule to easily complete inspections at all 1400 Maryland public schools identified in our Facilities Inventory Database within the six years from FY 2007 through FY 2012. However, with the reductions experienced to date in FY 2009 and FY 2010, this schedule must be revised. If the PSCP can resume a full inspection schedule in FY 2011 and subsequent years, we anticipate that we will have inspected all schools in Maryland by the close of FY 2013, corresponding to a seven year inspection cycle. All schools that have not been inspected within the last 3 years will be selected for surveys in the next 3 years in order of the oldest previous inspection dates in our records.\*

- b. The staff has received responses to all comments where required. Of the 15 schools cited for non-responsive or late action, in some cases extensions of time were given at the request of the LEA, and in other cases responses were either not dated or misfiled (these administrative discrepancies have now been corrected). During the period when this occurred in FY 2007, one of the two inspectors hired when PSCP took over the survey function left our employment and it was eight months before a qualified individual could be found to replace him, following three rounds of advertisement and interviews. In

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\* **Auditor's Comment:** We acknowledge that the IAC assumed the responsibilities of performing the public school maintenance inspections in fiscal year 2007. However, as noted in the finding, there are still a large number of the State's public schools that have not been inspected for up to 18 years.

every case in which responses were not received timely, we followed up with reminders to the LEAs to provide the overdue responses.\*

The following are the LEAs in which the 15 schools identified by the auditors are located, and explanations for what occurred in each case:

FY 2007	Baltimore City	6 Schools	Responses were received but were misfiled. The survey letter was dated 11/21/06. Because of the number of schools surveyed and the extensive number of issues requiring corrective action, the responses were allowed to be submitted in 3 stages. Partial responses for these 6 schools were received on 1/3/07. Three of the 6 schools were re-inspected on 2/23/07 and 3/2/07 and remaining responses dated 4/18/07 were received after Baltimore City received a strongly worded reminder letter from our office dated 4/16/07.
FY 2008	Anne Arundel	2 Schools	Responses were received. The survey letter was dated 8/5/08. Responses were expected to be received within 30 days but were received 10/22/08 after follow-up by our office.
FY 2008	Baltimore City	4 Schools	Responses were received but were not dated. The survey letter was dated 1/15/08. Responses were received electronically on 8/5 and 8/14/08 after much electronic and verbal communication by our office.
FY 2008	Prince George's	3 Schools	Responses were received. The survey letter was dated 10/16/08 and the LEA was given a 45 day extension to respond. After much follow up communication by our office, responses were received 3/6/09 although the letter was dated 11/10/08.

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\* **Auditor's Comment:** In its response, the IAC erroneously stated that 15 schools were cited in the report for not providing timely corrective action plans; rather, the report references 7 such occurrences. Furthermore, the IAC's detailed response acknowledges the delays noted in these 7 instances.

### Finding 3

#### **Response:**

Since the prior Legislative Audit, we have implemented procedures to correct the delayed submission of Closeout Cost Summaries and related documentation as follows:

- Quarterly, the finance office sends letters to the LEAs requesting closeout documentation for those projects which appear to be complete based on the last State expenditure made. Through these communications, we frequently find that the project is still in progress or is in the post-construction close-out phase. Since LEAs tend to expend State funds before expending local funds, the fact that a final State expenditure was made does not necessarily mean the project is completed and accepted; there may be unexpended local funds which are needed to complete the project and/or outstanding “punch list” items or legal issues that must be resolved before final payment can be made to the constructor. Using the date of the last State expenditure does not correctly reflect the project status for the majority of State-funded projects.
- If, after two quarterly letters have been sent, the LEA does not respond, the information is given to the Executive Director for follow-up via telephone calls.
- This year, we instituted a practice that we believe has already led to positive results. In October every year, the PSCP meets with almost every LEA to discuss their Capital Improvement Program (CIP) requests for the next fiscal year. These meetings are frequently attended by the Superintendent or other high-ranking officials of the school systems, and provide an opportunity to raise issues not directly related to the CIP. Prior to the meetings in the fall of 2009, our financial department provided the E.D. with detailed information regarding the LEAs that were in arrears regarding close-out documentation, and the issue was then raised at the meetings with these LEAs. To date, this process has resulted in a number of close-out submissions as well as discussions with our finance department to resolve outstanding issues.

Closeout documentation was received for one of the five projects mentioned (Rockville High) on May 19, 2009. Letters have been sent out every quarter requesting the remaining project closeout documentation without receipt of a reply. The PSCP audit staff has also cited the respective LEAs for not submitting the closeout documentation. The importance of providing correct close-out documentation was emphasized by the PSCP at a recent meeting of facility planners to discuss the upcoming FY 2011 CIP, and will remain a recurrent topic at future meetings.

Finding 4

**Response:**

The IAC agrees with the Auditor's recommendation which was implemented prior to the end of the audit engagement. We agree that all recorded collections should be verified with all deposits by an employee independent of the cash receipt functions. Our Administrative Specialist in the finance office has assumed the responsibility of conducting this verification with her initials noted on the bank statement when completed.

**AUDIT TEAM**

**Peter J. Klemans, CPA**  
Audit Manager

**Keonna M. Wiley**  
Senior Auditor

**Marva M. Sutherland**  
Staff Auditor