Legislative Audit Bulletin

Publication for Members of the Maryland General Assembly

Department of Health and Mental Hygiene – Developmental Disabilities Administration (DDA)

For many years, DDA incorrectly directed providers to collect contribution to care payments from certain consumers for services that should have been paid for with State and federal funds.

In FY 2014, DDA found the error and directed providers to stop collecting from this population. DDA did not take action to remedy past overcharges because it believed the costs outweighed the potential benefits to those affected. Based on DDA's estimates, the incorrect collections could have totaled approximately $4.2 million annually.

Coordinators responsible for overseeing service delivery to 25,000 consumers were not adequately monitored.

DDA did not adequately monitor the contractual resource/service coordinators, who were responsible for planning, coordinating, and monitoring all services delivered to approximately 25,000 DDA consumers. FY 2015 expenditures totaled $39 million to the 18 contractors providing resource/service coordinators.

DDA did not determine whether the coordinators were ensuring that the consumers were receiving medical and rehabilitative services as stipulated in their individual plans, and that Medicaid eligibility reassessments were conducted timely. As of November 2015, 338 consumers lost Medicaid eligibility because reassessments were not performed, shifting the related funding to 100 percent State funds.

DDA did not negotiate the labor rates for two successive contracts, totaling $8.1 million, to address systemic deficiencies with DDA's financial operating procedures and to provide financial restructuring advisory support. The contract rates for four vendor employees ranged from $195 to $416 per hour, equating to annual salaries ranging from $378,300 for a financial analyst to $665,496 for a programmatic leader. Moreover, DDA paid the full contract values even though some deliverables were not received.

Federal fund reimbursement requests were not always submitted timely, which resulted in lost interest income to the State of approximately $210,000.

DDA did not verify critical adjustments that were processed in its provider payment system, resulting in errors going undetected. Two of four adjustments tested resulted in errors costing DDA $505,000.

Comptroller of Maryland – Revenue Administration Division (RAD)

RAD had not determined the underlying cause(s) for erroneous subdivision codes assigned to numerous taxpayers in Montgomery County on its automated tax records.

A review conducted by the Comptroller revealed that erroneous codes had been recorded for more than 14,000 taxpayers, resulting in $8.7 million in local income taxes being incorrectly distributed among the special taxing areas within the county and the county at large for tax years 2010 through 2014.

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Although steps had been taken to correct the incorrect distribution of local taxes, RAD had not conducted a detailed analysis to determine what caused the coding errors, making it uncertain if other jurisdictions were affected. RAD subsequently determined that, in other jurisdictions, an additional $12.7 million in local taxes had been misdirected to the wrong municipalities since 2010.

RAD lacked sufficient policies and procedures to ensure local income tax distributions were accurate.

Our audit disclosed that RAD did not have sufficient policies and procedures to ensure subdivision codes recorded for taxpayers in the automated tax system were accurate.

RAD allowed taxpayer claims for out-of-state tax credits (which reduce State tax payments) without receiving required documentation. Our examination of 20 Maryland tax returns submitted for tax year 2013 that claimed out-of-state tax credits totaling $35 million disclosed 6 returns for which credits totaling $27.2 million were allowed by RAD, even though the required documentation was not on file.

Supervisory personnel did not consistently review critical adjustments to certain taxpayer accounts for financial and nonfinancial taxpayer data in the prescribed manner.

Department of Information Technology (DoIT)

Certain deficiencies were disclosed with DoIT's processes for overseeing the State's 33 major information technology development projects (MITDPs), valued at $850 million, that existed as of June 2015.

Oversight of major information technology development projects lacked evidence of sufficient monitoring.

DoIT lacked documentation that it effectively monitored MITDPs through its review of annual status reports and quarterly portfolio review meetings. Documentation for 13 of 20 quarterly meetings tested was either missing or did not contain the matters discussed and any significant corrective actions for IT project issues.

DoIT had not established a process to independently evaluate the performance of contractual project managers overseeing MITDPs. It also had not developed specific project monitoring documentation and reporting requirements for their activities and a means to ensure sufficient contract personnel were assigned to monitor all 33 MITDPs on its behalf.

DoIT also had certain security control deficiencies relating to the networks and computer resources under its responsibility. For example, certain contractors were provided excessive access on its network and numerous workstations were not appropriately protected from malware.

DoIT did not recommend an appropriate reduction in fees assessed to communications companies' customers in recognition of excess funds in the Universal Service Trust Fund, which exclusively funds the Telecommunications Access of Maryland (TAM) program.

We estimated that the FY 2015 Trust Fund balance of $12.4 million could support TAM expenditures for at least three years without additional fee revenues. A fee reduction was subsequently recommended and approved.

Maryland State Department of Education (MSDE)

MSDE did not revert to the State's General fund $12.3 million it received from the federal government for the costs of central overhead services provided by other State agencies to support MSDE federal grant activities.

MSDE also did not recover funds for expenditures associated with one federal grant in a timely manner, which resulted in lost interest income to the State of $140,000.

Certain federal grant funds were not obtained timely and reverted to the General fund.

MSDE entered into three consecutive interagency agreements with Towson University to hire individuals for its Chief Information Officer position instead of using an existing budgeted position. During FY 2014, payments under the agreements exceeded the budgeted salary and fringe benefit costs for the position by $58,000.

MSDE did not always adhere to State regulations when undertaking procurements, and its monitoring procedures over contractor performance were not always sufficient. For example, for two service contracts, totaling $17.2 million, MSDE did not retain either the financial or the technical proposals of the losing bidders to substantiate its award decisions.

MSDE did not have comprehensive procedures to ensure required criminal background checks were obtained for all employees working at 9,800 childcare facilities. It also did not always conduct or document thorough follow-up when subsequent alerts indicated criminal activity for those employees.

Certain information technology security measures were not in place. For example, appropriate safeguards were not established to protect sensitive personally identifiable information, such as social security numbers and related names of approximately 1,334,000 students and 190,000 teachers.

Special Review – Resource Sharing Lease Agreements

Based on an allegation received, we reviewed certain resource sharing lease agreements (RSAs) between two telecommunications companies and the Department of Information Technology (DoIT), the Department of State Police (DSP), or the Department of Natural Resources (DNR). These agreements provide compensation to the State from these companies for use of the State's communications infrastructure, such as towers.

Since 2001, lease payments totaling $4.4 million had been deposited into escrow accounts outside State control.

Although responsible for reviewing, valuating, and approving information technology RSAs entered into by State agencies under its authority, DoIT did not maintain comprehensive RSA records nor effectively oversee the 10 RSAs that were the subject of our review. These agreements were primarily entered into by DSP and DNR as early as 1996, with related compensation valued at $5.9 million as of June 2016.

Certain arrangements pertaining to the receipt of lease payments and the subsequent expenditure of these funds did not provide sufficient control and accountability.

Since 2001, lease payments from the two companies for the agreements were deposited into escrow accounts maintained outside of the State's control by a law firm, and DSP and DNR did not establish effective oversight of the account activity. The law firm retained the escrow account interest and investment income estimated at $90,900.

One DSP employee and one DNR employee singly directed the law firm to make purchases of telecommunications equipment and services from the escrow accounts. We identified questionable activities by this DNR employee, which were referred to the Office of the Attorney General.

As of June 2016, deposits into and withdrawals from the accounts totaled $4.4 million and $3.8 million, respectively, with balances in the accounts totaling $536,700. DoIT employees responsible for overseeing the RSAs were aware of these questionable arrangements in April of 2011, but took no substantive action.

In July 2015, DoIT Executive Management directed the law firm to cease making payments from the escrow accounts, believing that the funds deposited into the escrow accounts should have instead been deposited into the State's Major Information Technology Development Project Fund (administered by DoIT), and DNR undertook an internal audit of the funds.

The resultant January 2016 audit report concluded the escrow accounts effectively created an "off-budget" pool of funds that could be spent without regard to the State budget or procurement requirements.

DoIT, DSP, and DNR did not maintain a complete list of the RSAs, obtain Board of Public Works approvals (when required), and maintain inventories of the equipment attached to their telecommunications towers. The three departments also did not ensure that all compensation due from RSAs was received. We determined that the estimated value of uncollected compensation totaled $917,000.

Department of General Services – Office of Procurement and Logistics (OPL)

OPL, which manages the centralized procurement of certain goods and services for State agencies, did not effectively monitor procurements it delegated to State agencies. Certain of those procurements totaled $248 million during the audit period. OPL did not conduct audits to ensure these agency procurements were properly bid and awarded.

Furthermore, we noted deficiencies relating to OPL's Statewide procurements, including the failure to publish all contract awards in *eMaryland Marketplace* when required, and collect all administrative fees from vendors on certain Statewide contracts. We estimated the uncollected fees to be $222,000 based on a review of selected contracts.

There was inadequate oversight and monitoring of certain Statewide procurement responsibilities.

OPL did not properly oversee certain aspects of the State's Automated Fuel Management Program, which provides motor fuel for State vehicles at 101 dispensing locations.

OPL did not adequately review and follow up on the results of certain fuel contract monitoring procedures that had been established to ensure the propriety of transactions incurred and the quality of fuel provided under the $305 million contract. This included a lack of adequate follow-up when fuel at State dispensing locations failed 40 of 291 quality control tests conducted during our audit period.

OPL did not properly monitor providers that, by State Law, receive procurement preferences for State agency purchases. For example, OPL did not establish comprehensive procedures for determining the fair market prices of goods and services available from Maryland Correctional Enterprises.

Selected Audit Report Findings and Other Issues

Maryland Department of Transportation – Secretary's Office (MDOT)

MDOT did not establish an adequate process to verify that grant awards to the Washington Metropolitan Area Transit Authority (WMATA) were properly calculated. MDOT did not document its review of the grant award calculations performed by WMATA, could not explain the nature and extent of its review, did not always obtain critical documentation to verify the accuracy of the calculations, and had not conducted audits of the grants provided beyond FY 2009. MDOT awarded FY 2014 grant funds totaling $409.6 million for Maryland's portion of WMATA's operating deficit and capital improvement program expenditures.

Board of Liquor License Commissioners for Baltimore City (BLLC)

OLA's second audit of BLLC found that while some improvements were made, 16 of the 24 findings identified in our preceding audit report (dated March 28, 2013) had not been satisfactorily addressed.

BLLC still lacked comprehensive written policies and procedures in each area of operations reviewed. As a result, the staff was not provided with formal guidance for processing licenses, conducting inspections of licensed facilities, and handling disciplinary actions for instances of noncompliance with requirements.

BLLC also lacked procedures for management to effectively oversee and determine the efficiency and effectiveness of its operations. In a number of instances, BLLC issued licenses even though the proper fees were not always paid, including late fees. Further, BLLC's goal of inspecting each licensee's establishment, on average, four times a year was not met, and the inspections performed fell short of the targeted number of inspections.

University System of Maryland – Towson University (TU)

TU did not have an adequate process to monitor Provost Scholarship awards to ensure that students were receiving the correct scholarship award amounts based on their current residency status. OLA found that changes to the residency status of students were not adequately monitored, resulting in scholarship overpayments totaling $123,500 to 9 of the 21 students tested.

Maryland Department of Transportation – Maryland Aviation Administration (MAA)

MAA did not obtain federal reimbursements totaling $4.6 million of the $5.7 million in expenditures incurred related to residential sound insulation projects under a federal noise compatibility program. Specifically, $2.7 million did not qualify for reimbursement because the expenditures related to projects that were completed outside of the allowed airport perimeter or because MAA could not locate necessary documentation. Federal reimbursement of the remaining $1.9 million was denied because MAA did not comply with certain program requirements.

Audit Exemptions Approved for Seven Local School Systems

Chapter 261, 2016 Laws of Maryland, revised the previous mandate that required a financial management practices audit once every six years for each of the State's 24 local school systems. The law now permits a local school system, for one six-year period, beginning in FY 2017, to be exempt from the audit requirement if the county governing board, the county board of education, and the county delegation to the Maryland General Assembly each submitted a letter to the Joint Audit Committee requesting such an exemption. However, the law does not allow a local school system to be exempt for two consecutive six-year audit cycles and the Committee may direct OLA to conduct an audit of a local school system at any time.

Seven completed requests were submitted and, in December 2016, the Committee voted to approve audit exemptions to the following school systems: Caroline, Charles, Dorchester, Garrett, Somerset, Talbot, and Worcester counties.

Multi-Agency Audit Issue – Protection of Sensitive Information

In nine audit reports issued during calendar year 2016, we identified findings related to the inadequate safeguarding of sensitive personally identifiable information (PII) on State agency databases.

For example, in the February 2016 report of the Maryland Longitudinal Data System Center we described several instances of improperly stored sensitive PII. More than 2.2 million unique individual names and social security numbers (SSNs) were retained in clear text in a database on the Center's server, despite the database software being capable of data encryption. The Center did not employ any substantial mitigating controls (such as the use of data loss prevention software) to protect this unencrypted sensitive PII.

Criminals commonly seek PII, which can include an individual's full name, SSN, and date of birth, for use in identity theft. The State of Maryland *Information Security Policy* specifies that agencies must protect confidential data using encryption technologies and/or other substantial mitigating controls.

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The Office of Legislative Audits

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The Legislative Audit Bulletin is periodically issued by the Office of Legislative Audits (OLA) to inform the General Assembly of audits or reviews completed and to provide a summary of significant findings from selected reports. Unless specifically noted, the agencies generally agreed with the audit findings and recommendations, although some follow-up of the report response may have been necessary. Copies of reports can be obtained from the web site or by contacting either OLA or the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401, 410-946-5400 - 301-970-5400. For further details about any report or finding, please contact OLA at the listed numbers. We welcome your comments and suggestions.

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