# Legislative Audit Bulletin

Publication for Members of the Maryland General Assembly

## Department of Transportation – Maryland Transit Administration (MTA)

MTA did not verify the accuracy of direct labor rates paid to the four architectural and engineering contractors for the Red and Purple Lines. MTA also did not periodically verify contractors' payroll reports to ensure billed rates agreed with the actual labor rates the contractors used to pay their employees. The use of inappropriate billing rates would also impact each contractor's overhead charges and fixed rate profit, since these were based on the direct labor costs. The value of the direct labor, overhead, and profit totaled approximately $233 million for these contracts.

*MTA erroneously overpaid vendors approximately $10 million for fuel costs.*

MTA made an error in calculating the billing rates for fuel used by the three vendors providing Mobility Paratransit Program (MPP) services. After OLA notified MTA of its error, MTA determined the vendors were overpaid approximately $10 million for fuel costs during the period from February 2013 to August 2014. MTA also paid State excise taxes totaling $498,000 for fuel used in MPP service vehicles although it may be tax exempt.

Contract monitoring and adherence to State procurement regulations could be improved. For example, MTA accepted a contractor's price quote of $24 million for additional commuter rail services under a change order, without preparing an independent cost analysis to determine whether the price was reasonable.

Sole source contracts were not always procured in accordance with State procurement regulations, the receipt of bid documents was not always recorded, and MTA did not routinely publish contract awards on *eMaryland Marketplace*, as required.

## Special Review – MTA Interagency Agreements with Towson University (TU)

Using interagency agreements with TU's Division of Economic and Community Outreach (DECO), MTA circumvented State competitive bidding requirements and allowed MTA to augment its staff beyond its budgetary positions. For example, under an annual employment services agreement with DECO, MTA identified individuals who were to be employed by DECO to perform work directly for MTA. MTA was responsible for monitoring the work performed without any apparent involvement by DECO.

During fiscal years 2010 through 2013, DECO was paid $6.3 million and the number of personnel hired for MTA under the agreement ranged from 11 individuals in 2010 to 57 individuals in 2013. This included several individuals who had previously been employed by MTA or its contractors and who performed duties under the agreement that were similar to those performed when they were employed by or for MTA.

MTA also had poor procedures and controls for the administration of the agreements, did not maintain adequate

**Inside this issue:**

*Interagency agreements enabled MTA to circumvent State procurement regulations.*

records of the agreements and related task orders, paid invoices without adequate support, and could not document that certain deliverables were received.

One MTA employee had unilateral control over the agreements including creating, approving, and modifying the agreements, amendments, and related task orders. In addition, one of these agreements included payments totaling $200,000 for work performed by a company owned by this employee's spouse.

## Maryland Health Benefit Exchange (MHBE)

MHBE did not ensure that certain sole source and emergency procurements were properly administered. OLA's review of five such contract awards totaling $96.5 million disclosed that certain aspects of the procurements were not carried out in accordance with MHBE policies and relevant procurement documentation was not always retained.

MHBE did not routinely obtain or evidence its review of certain documentation to substantiate vendor billings. MHBE made payments totaling $8.2 million to vendors for hourly services without first obtaining time and payroll records to verify the propriety of the charges.

MHBE had not verified that entities receiving grants totaling $23.4 million during fiscal year 2014 had spent the funds for appropriate purposes. MHBE also did not submit requests for federal fund reimbursement in a timely manner resulting in estimated lost interest income to the State of $199,000.

*MHBE did not ensure that certain sole source and emergency procurements were properly administered.*

MHBE did not maintain adequate equipment inventory records nor properly account for all equipment purchases. MHBE was unable to provide a total value for its equipment. OLA identified four contracts that provided for the purchase of equipment totaling approximately $48.4 million.

Security and control deficiencies were noted over MHBE's information systems. For example, MHBE did not appropriately safeguard sensitive personally identifiable information and federal tax information residing on its current Exchange System and did not ensure that such information still in the custody of vendors responsible for development of the original Exchange System was properly secured.

## Department of Health and Mental Hygiene (DHMH) – Office of the Secretary

DHMH had not formally communicated to the Board of Public Works (BPW) certain aspects of the Medicaid Enterprise Restructuring Project (MERP) procurement process, including potential risks regarding the award decision, when it sought BPW's approval of the contract.

For example, evidence was lacking that the BPW was apprised that the successful bidder had past performance issues, such as significant cost overruns and project implementation delays, on similar projects in other states. As of September 2014, the contractor had been paid $27.4 million. (In October 2015, DHMH terminated the MERP contract due to multiple contract defaults by the contractor.)

*DHMH did not adequately plan the development of its automated Long Term Supports and Services tracking system.*

DHMH did not adequately plan the development of its automated Long Term Supports and Services tracking system, nor was Department of Information Technology approval obtained when the project was initiated. Furthermore, the project development work was not subject to competitive procurement as would normally be required by State regulations; instead, DHMH used an existing agreement with a State university, which subcontracted the work without a competitive solicitation. Over a three-year period, the cost of the project increased to $20.1 million as of October 2013.

DHMH's Office of Inspector General had not been completing audits of grants to local health departments (LHD) and certain providers timely and in accordance with professional standards. At the time of our review, 9 of the 24 LHDs and 36 of the 68 private providers had not been audited for at least five years. Total grant awards of $301.3 million during fiscal years 2008 and 2009 were unaudited.

Sufficient controls were not established over reimbursements for the cost of care provided to patients admitted to State hospitals. For example, delinquent accounts were not properly pursued, and as of March 31, 2013, there were 1,072 accounts totaling $16 million outstanding for more than 120 days.

## Video Lottery Operations Revenue – Small, Minority, and Women-Owned Businesses Account

OLA conducted a performance audit to evaluate the use of the video lottery terminal (VLT) funds that are allocated, by State law, to small, minority, and women-owned businesses as loans and investment capital by fund managers during fiscal year 2014.

OLA found that the appropriate amount of VLT proceeds, totaling $8.4 million, was distributed during fiscal year 2014 to the Small, Minority, and Women-Owned Businesses Account. Fund managers, using grants from the Account, made 66 loans totaling $6.4 million to eligible businesses with at least 50 percent of the funds to businesses in targeted areas, as required by State law.

Nevertheless, the Board of Public Works (BPW), which awarded fund manager grants, and the Department of Commerce (DOC), which was the grant administrator, could improve oversight of the fund managers and related Account activities (referred to as the Program).

Oversight could be enhanced by establishing overall goals, objectives, and related outcome measures to direct the lending and investing activities and to measure and evaluate the success of this Program and fund manager performance.

Program goals and objectives could be established pertaining to desired economic impact, targeted industries, and geographic distribution of loan and investment activity. For example, we noted that businesses in 12 of 24 State jurisdictions did not receive any of the 66 loans made by fund managers totaling $6.4 million during fiscal year 2014.

*Oversight could be enhanced by establishing goals, objectives, and outcome measures to direct lending activities and evaluate Program success.*

DOC also needs to improve its monitoring of fund managers' compliance with key contractual requirements and to evaluate fund manager performance. For example, DOC had not established a formal process to verify that fund managers made loans only to eligible businesses and that appropriate loan underwriting standards and practices were used.

DOC lacked effective controls over the financial transactions processed by fund managers to ensure the propriety of all transactions processed. For example, DOC was unaware of certain account activity processed by one fund manager, including $75,611 in one manager's expenses that was paid without prior authorization or sufficient support of costs incurred.

## Department of Human Resources (DHR) – Local Department Operations

The DHR Office of the Inspector General's (OIG) mandated 3-year audits of the State's 24 local departments of social services (LDSSs) continued to identify a significant number of audit deficiencies in critical areas of operations.

As of December 2014, the most recent DHR OIG audit reports for the 24 LDSSs collectively included 299 audit findings, including 89 findings the OIG deemed to be repeat conditions from its preceding audits. Those audit reports contained findings relating to all of LDSSs' major operational responsibilities, such as fiscal management activities, as well as compliance with policies established by DHR's Family Investment Administration and Social Services Administration.

*Audit reports for the 24 local departments of social services collectively included 299 audit findings, including 89 repeat findings.*

OLA found that DHR executive management had not established a formal process to provide oversight and monitoring of corrective actions taken by the LDSSs to address audit findings. Although the OIG has an established corrective action monitoring process for each audit report, the OIG was not effectively following that process to ensure that findings were corrected.

The OIG did not distribute its LDSSs audit reports to all appropriate parties, such as the LDSSs local oversight boards and the local governing authorities, as required by State law.

## Department of Public Safety and Correctional Services – Division of Parole and Probation (DPP) – Probation Intake and Fee Assessment Processes

Based on a hotline tip, OLA conducted an audit of the probation intake and fee assessment processes for certain offenders monitored by DPP, including offenders in the Drinking Driver Monitor Program (DDMP). OLA found that the probation intake and fee assessment processes

*Probation intake and fee assessment processes were inconsistently administered, resulting in improper assessments.*

were inconsistently administered by selected field offices, resulting in improper assessments.

OLA's automated match of DPP case management systems identified DDMP cases in which required monitoring and supervision fees may not have been fully assessed or were not assessed at all. This match identified 3,983 cases in which fees were potentially under-assessed. OLA's detailed review of 45 of these cases disclosed that, collectively, fees totaling $42,625 were not assessed in 32 cases. DDMP fees collected during fiscal year 2014 totaled $6 million.

## Selected Findings from Other Audit Reports

**DHMH – Springfield Hospital Center (SHC)**
One SHC employee controlled virtually all aspects of the procurement and related invoice approval for maintenance contracts, resulting in questionable activity with a contractor with whom the employee appeared to have conducted personal business. Thirty-three contracts were awarded to this contractor for electrical, plumbing, and construction services and supplies totaling approximately $439,300.

Each contract was awarded for an amount less than $25,000, which appeared to be an attempt to avoid either DHMH's Office of Procurement and Support Services approval or *eMaryland Marketplace* bid solicitation requirements. These matters were referred to the Office of Attorney General – Criminal Division. SHC advised that the employee responsible for these questionable activities resigned in lieu of termination in June 2015. (According to Maryland Judiciary records, several individuals, including the SHC employee, were indicted in October 2015 on charges related to these matters.)

**Department of State Police (DSP)**
DSP did not properly account for certain special fund activity pertaining to reimbursements from various State and private entities for performing services, such as conducting commercial vehicle inspections. Several different reimbursement activities were not separately accounted for, and were combined and reflected in two special fund balances.

One special fund had a deficit balance of $44.2 million while another had a positive balance of $34.4 million at the end of fiscal year 2014, neither of which appeared reasonable given the nature of the activity pertaining to these funds. DSP had not investigated these balances and could not determine whether it recovered all costs for the services performed.

DSP's procedures for processing handgun qualification licenses (HQL) and handgun registration applications were not comprehensive. For example, DSP did not require handgun dealers to submit certain required HQL documentation with the handgun registration applications and did not have procedures to ensure that dealers submitted completed applications in a timely manner.

Assurance was also lacking that handgun information was accurately recorded in two DSP automated systems used to record handgun registration information. Our automated match of 27,500 applications recorded in those systems found that handgun serial numbers for approximately 4,000 registered handguns differed in the two automated systems.

**Financial Management Practices Audit – Baltimore County Public Schools (BCPS)**
BCPS was paying significantly more for roof replacements, compared to other Maryland public school systems, through its exclusive use of one contractor obtained through an intergovernmental cooperative purchasing agreement (ICPA) since 2006.

BCPS routinely used this contractor to replace school roofs, but did not periodically assess the cost benefit of this practice. Between July 1, 2010 and December 10, 2013, BCPS paid approximately $31.4 million to the contractor obtained through the ICPA for roofing services, which we estimate, based on a comparison of costs per square foot, was $11 million greater than more recent costs paid by another school system for a roof replacement using a competitive procurement.

**Department of Public Safety and Correctional Services (DPSCS) – Office of the Secretary and Other Units**
DPSCS entered into interagency agreements with a State university that enabled it to augment its information technology staff beyond its budgeted positions and allowed DPSCS to hire staff at enhanced salaries. The fiscal year 2015 agreement effectively created an additional 30 positions, at a cost of $3.4 million, beyond the 214 positions authorized in the budget for the DPSCS's Information Technology and Communications Division. The university performed no oversight of these employees, who were hired specifically to work for DPSCS, and the university's involvement was generally limited to hiring the employees and paying their salaries.

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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.

**Thomas J. Barnickel III, Legislative Auditor**

**Department of Legislative Services**
**Office of Legislative Audits**
State Office Building
301 West Preston Street, Room 1202
Baltimore, Maryland 21201
Phone: 410-946-5900 · 301-970-5900
Toll Free: 1-877-486-9964
Fraud Hotline: 1-877-FRAUD-11
Fax: 410-946-5999 · 301-970-5999
E-mail: Bulletin@ola.state.md.us
Web site: http://www.ola.state.md.us