Audit Report

Maryland Department of Health
Office of the Secretary and Other Units

July 2020

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MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

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Legislative Auditor

July 14, 2020

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Office of the Secretary and other units of the Maryland Department of Health (MDH) for the period beginning January 11, 2016 and ending February 11, 2019. MDH is responsible for promoting the health of the public and for strengthening partnerships between State and local governments, the business community, and all health care providers in Maryland.

Our audit disclosed that MDH did not provide adequate oversight over interagency agreements used by its administrations to obtain services from other State agencies. As a result, certain interagency agreements were used to augment MDH staff beyond budgeted positions, had administrative rates that appeared excessive, were not properly approved, and were not properly monitored. According to State records, MDH administrations had 192 interagency agreements with State agencies (including universities) and other governmental entities during fiscal year 2018, valued at $210.2 million.

MDH did not always comply with State procurement regulations when awarding sole source and emergency procurements. For example, MDH had not negotiated pricing for four sole source contracts tested totaling $8.1 million and did not adequately justify the use of the sole source procurement method for two of these contracts totaling $3.2 million that were awarded to the incumbent vendors. In addition, MDH did not always publish contract awards on the State's *eMaryland Marketplace (eMM)*, as required. Our test of 15 contracts totaling $359.2 million disclosed that 5 contracts totaling $235.5 million were not published on *eMM*.

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We also noted that MDH's Office of the Inspector General (OIG) audits of local health departments (LHDs) did not always include an adequate review of contracts, payroll, and user access to MDH's automated systems. OIG performs audits of each of the 24 LHDs which are the primary mechanism for monitoring LHD activities. According to MDH records, during fiscal year 2018, payments to the 24 LHDs subject to audit totaled approximately $294.9 million, of which $120.7 million was for contractual services and $174.2 million was for LHD employee payroll costs.

In addition, we found that MDH had not established adequate controls to ensure the propriety of biweekly payroll payments, leave balances, and timesheets. For example, total payroll as reflected in the State's Central Payroll Bureau payroll registers was not reconciled with the Statewide Personnel System's payroll summary reports. In addition, MDH did not institute certain security measures and controls over its information systems.

Finally, our audit also included a review to determine the status of the 16 of the findings contained in our preceding audit report. We determined that MDH satisfactorily addressed 12 of these 16 findings. The remaining 4 findings are repeated in this report as 3 findings.

MDH's response to this audit is included as an appendix to this report. We reviewed the response and noted general agreement to our findings and related recommendations, and while there are other aspects of the response which will require further clarification, we do not anticipate that these will require the Joint Audit and Evaluation Committee's attention to resolve. In accordance with our policy, we have redacted any vendor names or products mentioned by MDH in the response.

We wish to acknowledge the cooperation extended to us during the audit by MDH and its willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

Gregory A. Hook

Gregory A. Hook, CPA
Legislative Auditor

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

Background Information

Agency Responsibilities

The Maryland Department of Health (MDH) is responsible for promoting the health of the public and for strengthening partnerships between State and local governments, the business community, and all health care providers in Maryland. This audit report includes six budgetary units associated with the MDH Secretary and five Deputy Secretaries. According to the State's records, during fiscal year 2019, expenditures for these units totaled approximately $72.7 million.

The MDH Secretary and five Deputy Secretaries provide administrative infrastructure and oversight to MDH and health providers throughout the State. In addition, they are responsible for policy formulation and program implementation and provide executive oversight to the MDH administrations (see **Exhibit A** for Organizational Chart). The various programs administered by these units are audited separately in one of the 23 other Office of Legislative Audits (OLA) audits of MDH (see **Exhibit B** for Listing of OLA Audits of MDH).

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of 16 of the 17 findings contained in our preceding audit report dated August 30, 2017. The status of the remaining finding was previously determined during our audit of the Maryland Department of Health – Medical Care Programs Administration dated November 7, 2019. As disclosed in the following table, we determined that 12 of the 16 findings were satisfactorily addressed. The remaining 4 findings are repeated in this report as 3 findings.

Status of Preceding Findings

Preceding Finding	Finding Description	Implementation Status
Finding 1	MDH did not provide adequate guidance and oversight regarding 304 interagency agreements valued at $329.5 million that MDH administrations entered into with units of State universities. In addition, certain administrative fees included in the agreements appeared excessive.	**Repeated** (Current Finding 1)
Finding 2	MDH did not establish procedures to help ensure the agencies responsible for administering interagency agreements verified that the appropriate services were provided by the universities at the agreed-upon costs.	Not repeated
Finding 3	MDH did not always comply with State procurement requirements regarding the award of sole source and emergency contracts.	**Repeated** (Current Finding 2)
Finding 4	MDH did not have a formal monitoring procedure to ensure that it consistently complied with publication requirements for service and information technology contract awards.	**Repeated** (Current Finding 2)
Finding 5	MDH did not always comply with State procurement regulations with respect to bidding requirements and retention of critical procurement documentation. Additionally, MDH also awarded a contract for an amount substantially higher than could be supported by the related bid.	Not repeated
Finding 7	The Office of the Inspector General (OIG) had not audited certain private providers for more than five years and did not always conduct private provider audits in a comprehensive manner.	Not repeated
Finding 8	OIG did not have a formal process for oversight and monitoring to ensure corrective actions were taken by both local health departments and private providers.	Not repeated
Finding 9	Sensitive personally identifiable information within a database and data file was stored without adequate safeguards.	Not repeated
Finding 10	Network access to critical MDH internal network devices was not properly restricted, intrusion detection prevention system coverage was not complete or adequate, and certain wireless connections were not configured securely.	Not repeated
Finding 11	Malware protection for MDH computers was not sufficient to provide the Office of Information Technology with adequate assurance that these computers were properly protected.	Not repeated
Finding 12	Information technology contractors had unnecessary network-level access to the MDH network.	**Repeated** (Current Finding 6)
Finding 13	Controls were not established to ensure collections were properly accounted for, deposited, and secured.	Not Repeated
Finding 14	MDH did not adequately pursue collection of certain Division of Cost Accounting and Reimbursements delinquent accounts receivable.	Not repeated
Finding 15	Overtime earned by certain Secure Evaluation and Therapeutic Treatment Program employees for an extended period appeared questionable and was not investigated.	Not repeated
Finding 16	MDH did not comply with certain corporate purchasing card requirements relating to the sharing of cards and certain purchasing activities.	Not repeated
Finding 17	MDH physical inventory procedures did not comply with certain Department of General Services requirements.	Not repeated

Findings and Recommendations

Interagency Agreements

Background

Interagency agreements (IAs) are used by State agencies, including the Maryland Department of Health (MDH), to obtain services such as information technology assistance and training from State agencies including State institutions of higher education. IAs are exempt from State procurement laws, including the requirements for competitive procurement, publication of solicitations and awards, and Board of Public Works' approval. According to State records, MDH administrations had 192 interagency agreements with State agencies (the majority with State institutions of higher education) and other government entities during fiscal year 2018, valued at $210.2 million.

Finding 1
MDH did not provide adequate oversight over IAs. As a result, certain IAs were used to augment MDH staff beyond budgeted positions, had administrative rates that appeared excessive, were not properly approved, and were not properly monitored.

Analysis

MDH did not provide adequate oversight over IAs. As a result, certain IAs created by various MDH administrations were used to augment staff beyond budgeted positions, had administrative rates that appeared excessive, and were not properly approved. Our review of 20 IAs that were active during our audit period totaling $41.6 million (including 15 with State universities) disclosed the following conditions.

Interagency Agreements Were Used to Augment Budgeted Staff

MDH administrations used certain IAs, primarily with State universities, to inappropriately augment staff beyond budgeted positions. According to State records, the administrations had 154 interagency agreements with State universities during fiscal year 2018 that were valued at $194.0 million and included funding for approximately 1,400 positions. Our test of the aforementioned 20 IAs disclosed that 11 IAs (10 of which were with State universities) totaling $11.2 million were primarily used to obtain personnel in non-health specific positions.

Specifically, the 11 IAs included 81 positions of which 62 positions (77 percent) were for non-health specific duties. For example, 3 IAs with one university totaling $5.4 million had personnel costs totaling $4.5 million. Our review

disclosed that 10 of the 12 positions associated with these 3 IAs were for non-health related personnel, such as policy analysts. The State universities' involvement on these 3 IAs were limited to payroll administrative functions such as adding employees to their payroll system and then invoicing MDH. In contrast, MDH was responsible for reviewing potential employee applications, conducting the employment interviews, selecting the employee, and subsequently assigning the work to and supervising the employee. Three other IAs totaling $12.7 million with universities which included 34 employees lacked sufficient detail to determine whether the employees were health related or non-health related.

Administrative Rates Appear Questionable

Administrative rates on certain IAs exceeded the maximum allowed under MDH policy and appeared excessive. MDH policy allowed administrations to pay administrative fees up to 10 percent on IAs and, under certain circumstances, fees up to 25 percent are allowed. Administrative fees in excess of 25 percent require a justification and approval by MDH's Chief Financial Officer and Secretary, or their designee. Our test of the aforementioned 20 IAs disclosed 2 IAs totaling $2.8 million that had administrative fees of 33 percent and 55 percent. MDH could not provide the required documented justification or approval of the 55 percent fee, and approved the 33 percent fee because it was lower than the administrative fee (50 percent) paid under the previous IA with this entity. In our opinion, this rationale was not adequate to justify why an administrative fee in excess of 25 percent was warranted.

In addition, we noted that one administration circumvented the MDH administrative rate policy for three IAs totaling $5.4 million by creating supplemental fees, that did not appear to be anticipated by the policy. Specifically, the administrative fee on these IAs was reduced from 28 percent to 14 percent, but another "health subsidy" fee was added to the IAs, and we were advised that this fee was to make up the difference. MDH policy only addressed the administrative fees so the additional fees were not subject to the aforementioned policy and MDH oversight.

Required Approvals Not Always Obtained

MDH did not always obtain Department of Budget and Management (DBM) approval for IAs greater than $500,000. The April 2017 and April 2018 *Joint Chairmen's Reports* required DBM to approve IAs greater than $500,000. Our test of the aforementioned 20 IAs disclosed that 3 IAs with a State university totaling $1.3 million appeared to have been artificially divided, circumventing DBM approval requirements. The 3 IAs were all effective on the same date for the same administration and were for similar services related to cancer prevention

and control staffing. For another IA tested, DBM requested certain information from MDH prior to approving a portion of the IA totaling $4.3 million for providing adult and child psychiatry residents inpatient and community programs. However, MDH did not submit the required information and continued to use the IA.

In addition, MDH's Office of the Inspector General (OIG) conducted a review of allegations of questionable activity related to certain IAs. We obtained and reviewed a copy of the resultant report, and we noted that beginning in September 2018, one administration renamed its IAs as grants, circumventing MDH and DBM oversight. Our review of MDH records as of July 2019, disclosed that this administration had entered into 11 grant agreements totaling $3.9 million for services previously provided under interagency agreements.

Certain Payments Could Not Be Supported

Our review of 20 payments totaling $3.6 million made on the 20 IAs disclosed that for 5 payments totaling $1.2 million, there was a lack of assurance that the payments were proper. For example, a $521,000 payment to a State university in fiscal year 2019 exceeded the reported actual expenditures included with the university's invoice of $236,000 by $285,000. MDH management advised us that it would make equal quarterly payments on this IA and then perform an annual reconciliation to adjust for differences between the actual expenditures and the amount actually paid. However, as of November 2019, the fiscal year 2019 reconciliation had not been performed. In addition, this IA which included personnel costs totaling $5.2 million for 16 employees did not include job descriptions or salaries for any of the employees. As a result, MDH could not ensure the amounts paid were proper.

Similar conditions regarding oversight of IAs were commented upon in our preceding audit report. However, in the period since our preceding report was issued (August 2017), MDH significantly decreased the number of IAs it had (the preceding report noted the existence of 304 IAs valued at approximately $329.5 million). Although still deemed a reportable condition, improvement was noted in MDH's oversight of IAs. Specifically, MDH attempted to implement our preceding recommendations by reviewing existing IAs and discontinuing certain IAs by bringing tasks inside of MDH and increasing the number of authorized positions.

Recommendation 1

We recommend that MDH

a. provide oversight of IAs executed by its administrations (repeat);

b. refrain from executing IAs to augment its staff (repeat);

c. **ensure administrative fees are reasonable (repeat) and in accordance with MDH policy;**
d. **modify any agreements with excessive fees, including those noted above;**
e. **provide oversight of its administrations to ensure they refrain from artificially dividing IAs and reclassifying IAs as grants;**
f. **obtain DBM approval for all IAs over $500,000 including, those noted above; and**
g. **ensure all payments made under IAs are properly supported, including those noted above.**

Procurements and Disbursements

Finding 2
MDH did not always comply with State procurement requirements related to sole source and emergency procurements and did not always publish contract awards, as required.

Analysis
MDH did not always comply with State procurement requirements related to sole source and emergency procurements and did not always publish contract awards as required. We tested four sole source contracts awarded between May 2016 and January 2019 totaling approximately $8.1 million and two emergency procurements awarded between May 2017 and February 2018 totaling approximately $1.3 million. The value of these sole source and emergency contracts totaled $13.4 million (including options of $5.3 million) and $2.1 million (including options of $781,000), respectively.

- MDH did not always adequately justify or negotiate the pricing for sole source procurements, as required. For the four sole source contracts tested, MDH could not adequately justify the use of the sole source method for two of the contracts totaling $3.2 million that were awarded to the incumbent vendors. For example, MDH's justification for a $2.3 million contract for information system application support and maintenance, stated that "awarding the contract to the incumbent vendor would avoid disruption of existing operations and appeared to be the most cost effective." While MDH's assertions may be valid, they do not support the use of the sole source method based on the criteria in State procurement regulations. MDH also did not conduct price negotiations for any of the contracts tested, as required by regulation, and instead accepted the pricing submitted by the vendors.

- MDH did not negotiate pricing or notify the Board of Public Works (BPW) for one of the two emergency procurements totaling $561,560 tested, as required. In addition, MDH made payments totaling $100,000 to the vendor prior to the contract execution date.

Our review also disclosed that MDH did not always publish contract awards on *eMaryland Marketplace (eMM*) as required. *eMM* is an internet-based, interactive procurement system managed by the Department of General Services (DGS). Effective July 2019, DGS replaced *eMM* with *eMaryland Marketplace Advantage* (*eMMA*). Specifically, our test of 15 contracts awarded during fiscal years 2016 through 2019, totaling $359.2 million (including options of $137.0 million) disclosed that 5 contract awards totaling $235.5 million that were awarded between May 2016 and March 2019 were not published on *eMM* as of June 2019. These contracts were procured to provide rebates for certain food products under the Women, Infants and Children (WIC) program, additional staffing at certain medical facilities, and other administrative support.

State law and/or regulations limit the use of sole source awards to instances when goods and services are available from only a single vendor. The regulations further require agencies to document the justification for not using a competitive procurement, conduct price negotiations, and obtain BPW approval for sole source awards and notify the BPW of emergency procurements. Finally, State law and regulations require awards for contracts greater than $50,000 (greater than $25,000 prior to October 1, 2017) to be published on *eMM* not more than 30 days after the execution and approval of the contract.

Recommendation 2
We recommend that MDH ensure that

a. sufficient justifications exist for sole source procurements (repeat);
b. documented price negotiations are conducted as appropriate (repeat);
c. BPW is notified of emergency procurements, including the one noted above;
d. payments are only made subsequent to contract execution; and
e. all applicable contract awards are published not more than 30 days after the execution and approval of the contract, as required.

Office of the Inspector General

Finding 3
The Office of the Inspector General did not always conduct a comprehensive review of contracts, payroll, and user access to MDH's automated systems during its audits of local health departments.

Analysis
Office of the Inspector General (OIG) audits of local health departments (LHDs) did not always include a comprehensive review of contracts, payroll, and user access to MDH's automated systems. In addition, there was no explanation in the audits for the differing scopes of the audits. OIG performs audits of each of the 24 LHDs which are the primary mechanism for monitoring LHD activities. OIG's audit policy states that audits are to be performed in accordance with *Government Auditing Standards* issued by the United States Government Accountability Office. According to MDH records, during fiscal year 2018, payments to the 24 LHDs subject to audit totaled approximately $294.9 million, of which $120.7 million was for contractual services and $174.2 million was for LHD payroll costs. We tested five OIG audits of LHDs conducted during fiscal year 2018 and noted the following conditions.

- OIG audits of LHDs did not always include a comprehensive review of the LHDs' contracts and related expenditures. Our review disclosed that four of the OIG audits tested did not verify that the LHDs properly procured the contracts. In addition, these audits did not include any verification of the propriety of the related contract expenditures and instead relied on audited financial statements obtained from the vendors. However, there was no indication that those financial statement audits included reviews and testing of the contracts entered into with the LHDs nor did they address the services provided to the LHDs or specify how the related State funds were being used. According to MDH records, these four LHDs had contractual expenditures totaling approximately $27.4 million in fiscal year 2018.

- Two of the OIG audits reviewed did not review certain LHD payroll activity (such as, timesheets, pay rates, and leave balances) to support the payroll expenditures reported by the LHDs. Verification of these expenditures is important because LHDs provide a variety of services using a combination of State and non-State employees. According to MDH records, these two LHDs had payroll expenditures totaling approximately $13.7 million in fiscal year 2018.

- The five OIG audits tested did not include a review of user access to MDH's automated systems, which includes numerous LHD employees with access to sensitive information related to Medicaid recipients. In this regard, our April 2018 audit report for the MDH – Prevention and Health Promotion Administration and other offices, we noted that 28 LHD users had unnecessary access to sensitive health information on 486,676 patients.

Recommendation 3
We recommend that MDH ensure the scope of future LHD audits includes comprehensive reviews of contracts, payroll, and user access, unless otherwise formally justified in audit planning documents.

Payroll

Finding 4
MDH had not established adequate controls to ensure the propriety of biweekly payroll payments, leave balances, and timesheets.

Analysis
MDH had not established adequate controls to ensure the propriety of biweekly payroll payments, leave balances, and timesheets. According to State records, MDH's payroll expenditures totaled approximately $521.7 million in calendar year 2018.

Employee Pay and Leave Balances Adjustments Were Not Adequately Reviewed
Adjustments to employee pay and leave balances were not adequately reviewed for propriety and to ensure proper processing. During calendar year 2018, MDH processed 5,219 adjustments that changed employee pay by a total of $1.8 million (increase of $1.3 million and decrease of $0.5 million). During this period MDH also processed 4,860 leave adjustments that changed employee leave balances by 172,710 hours (increase of 102,419 and decrease of 70,291 hours).

Each pay period, an MDH employee was responsible for submitting a manually prepared listing of payroll adjustments to the Department of Budget and Management for processing in the Statewide Personnel System (SPS). MDH did not have a process for supervisory personnel to review the listing. In addition, MDH did not have a procedure to verify the propriety of leave balance adjustments that could be processed by 12 MDH employees directly in SPS. MDH also did not use available system output reports of all payroll and leave adjustments recorded to ensure that only authorized adjustments had been

processed. Our test of leave and payroll adjustments did not disclose any improper transactions.

MDH Approved Timesheets Without Verifying the Recorded Time

MDH's Central Payroll Unit (CPU) approved timesheets for employees without verifying that the employees worked the recorded time. The CPU was responsible for approving timesheets for employees when their respective supervisor did not approve it before the payroll deadline. Our review disclosed that the CPU employees approved the timesheets without any direct knowledge that the employee actually worked the recorded time and after processing did not retroactively verify the correctness of the reported time with the employee's supervisor or obtain supervisory approvals. According to SPS records, during the pay period ending January 1, 2019 the CPU approved eight percent of the hours worked by MDH employees.

Total Payroll Disbursements Were Not Reconciled

Biweekly payroll payments from the State's Central Payroll Bureau (CPB) were not reconciled, in the aggregate, to the payroll payments reflected in reports generated from SPS. Employees recorded their work time directly into SPS for online approval by their assigned supervisors. Payroll payments were processed by CPB based on the approved work time for the pay period and the salary information reflected in SPS. However, MDH did not compare the total payroll, as reflected in the CPB payroll registers, with the SPS payroll summary reports reflecting the amounts that should have been paid based on each employee's approved work time and salary information. As a result, there was a lack of assurance that actual payroll payments were properly supported by time records and salary information maintained within SPS.

MDH advised us that it did not reconcile SPS reports with CPB reports because it believed that there was an automated control to ensure that the two systems reconcile. However, SPS contains certain unique system design features, which often resulted in differences between CPB and SPS. For example, CPB payroll registers only reflect activity processed during the particular pay period while SPS payroll summary reports will reflect all activity relevant to the pay period irrespective of when the transactions were processed. We obtained MDH's payroll register from CPB and the related report from SPS for the pay period ending on January 1, 2019, and we noted an unreconciled difference in that CPB reported payroll expense of $1.8 million greater than SPS. Ninety-five percent of this difference related to 3 of MDH's 25 payroll units.

Recommendation 4
We recommend that MDH

a. **independently verify pay and leave balance adjustments to ensure that only authorized adjustments have been processed and take appropriate corrective action when errors are noted;**
b. **retroactively verify that the time recorded on timesheets approved by CPU was actually worked; and**
c. **reconcile total payroll as reflected in CPB payroll registers each pay period with SPS payroll summary reports, investigate any differences, and ensure that those reconciliations are documented.**

Information Systems Security and Control

Background

MDH's Office of Enterprise Technology (OET) is responsible for the overall management and direction of MDH information systems. These systems include, but are not limited to, the mainframe-based Medicaid Management Information System II (MMIS II), the Hospital Management Information System (HMIS) involving information for patients of State hospitals such as admissions, billings, and collections, and the State of Maryland National Electronic Disease Surveillance System (NEDSS), which processes sensitive information related to certain infectious diseases and exchanges information with the Center for Disease Control nationwide system.

MDH's network infrastructure provides access to all MDH systems. MDH operates a headquarters location network with an associated wide area network, which includes connections to approximately 9,800 statewide computers spread across local health departments, State hospitals, health clinics, and the MDH headquarters location. The MDH network has connections to the Statewide Government Intranet and the Internet. Finally, the MDH network includes redundant perimeter firewalls in place at its two data center locations.

Finding 5
Intrusion detection prevention system coverage for the MDH network was not adequate for blocking malicious traffic.

Analysis

Intrusion detection prevention system coverage for the MDH network was not adequate for blocking malicious traffic. The MDH network's intrusion detection prevention system (IDPS) operations were not configured to block (prevent) identified malicious traffic entering the network from untrusted sources. The

MDH firewalls' IDPS component included an inspection policy defined to identify and drop malicious network traffic; however, the option to block such traffic was not enabled. The absence of IDPS block coverage created network security risk as certain network traffic could have contained malicious data.

The State of Maryland *Information Technology Security Manual* requires that networks be protected against malicious code and attacks by implementing protections including the use of IDPS to monitor system events, detect attacks, and identify unauthorized use of information systems and/or confidential information.

Recommendation 5
We recommend that MDH configure its network-based IDPS components to prevent high-risk malicious traffic from entering the network and to continuously log lower-risk malicious traffic for review and possible investigation.

Finding 6
Information technology contractors had unnecessary network-level access to the MDH network.

Analysis
Information technology (IT) contractors had unnecessary network-level access to the MDH network. MDH routinely uses IT contractors for both system development and support purposes. These contractors worked either on-site at MDH locations or remotely. For example, Medical Care Programs Administration personnel and contractors confirmed the existence of at least 39 IT contractors working onsite at the headquarters location at the time of our audit. Overall, IT contractors only require network access to the specific development servers involved with their projects and certain support servers, such as email servers. Although the connections and activity from MDH IT contractors working remotely was subject to network traffic filtering, a similar control was lacking for those IT contractors with on-site access.

- IT contractors working on site at MDH locations had unnecessary network-level access to numerous critical MDH network devices via all ports because their network traffic was not subject to traffic filtering.

- We were advised by OET personnel that they did not maintain a centralized schedule of all IT contractors working onsite within MDH locations. Therefore, OET was not aware of details concerning the presence of these

contractors and the extent of unnecessary network-level access by these contractors to critical MDH network devices.

Similar conditions regarding onsite IT contractors' network level access and the lack of a contractor tracking schedule were commented upon in our preceding audit report.

MDH network-level access by IT contractors should be limited to only the network devices and ports required for them to perform their contractual duties. The State of Maryland *Information Technology Security Manual* requires an authorization process which specifically grants access to information ensuring that access is strictly controlled, audited, and that it supports the concept of least privilege allowing only authorized access to accomplish assigned tasks.

Recommendation 6
We recommend that MDH

a. limit IT contractors' network-level access to only those network devices and ports required for them to perform their duties (repeat); and

b. create and maintain, on a current basis, a centralized schedule of all IT contractor personnel working onsite within MDH and use this schedule to ensure that network-level access for these contractors is appropriately limited as noted in the aforementioned recommendation (repeat).

Audit Scope, Objectives, and Methodology

We conducted a fiscal compliance audit of the Office of the Secretary and other units of the Maryland Department of Health (MDH) for the period beginning January 11, 2016 and ending February 11, 2019. This 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 MDH'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 significance and risk. The areas addressed by the audit included audits of local health departments and private providers, grants, procurement and disbursements, corporate purchasing cards, cash receipts, payroll, financial investigations and related accounts receivable records for patients in State facilities, information security, and equipment. Our audit also included a review of certain support services (such as payroll, purchasing, maintenance of accounting records, and related fiscal functions) provided by MDH's Office of the Secretary and related units to the other units of MDH. We also determined the status of 16 of the 17 findings contained in our preceding audit report. We determined the status of the remaining finding during our audit of the MDH – Medical Care Programs Administration.

Our audit did not include an evaluation of internal controls over compliance with federal laws and regulations for federal financial assistance programs and an assessment of MDH's compliance with those laws and regulations because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including MDH.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of MDH's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the

tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data) and the State's Central Payroll Bureau (payroll data), as well as from the contractor administering the State's Corporate Purchasing Card Program (credit card activity). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these sources were sufficiently reliable for the purposes the data were used during this audit. We also extracted data from various key MDH internal systems, such as the Hospital Management Information System for the purpose of testing accounts receivable for patients in State facilities. We performed various tests of the relevant data and determined the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

MDH'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. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to MDH, were considered by us during the course of this audit.

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.

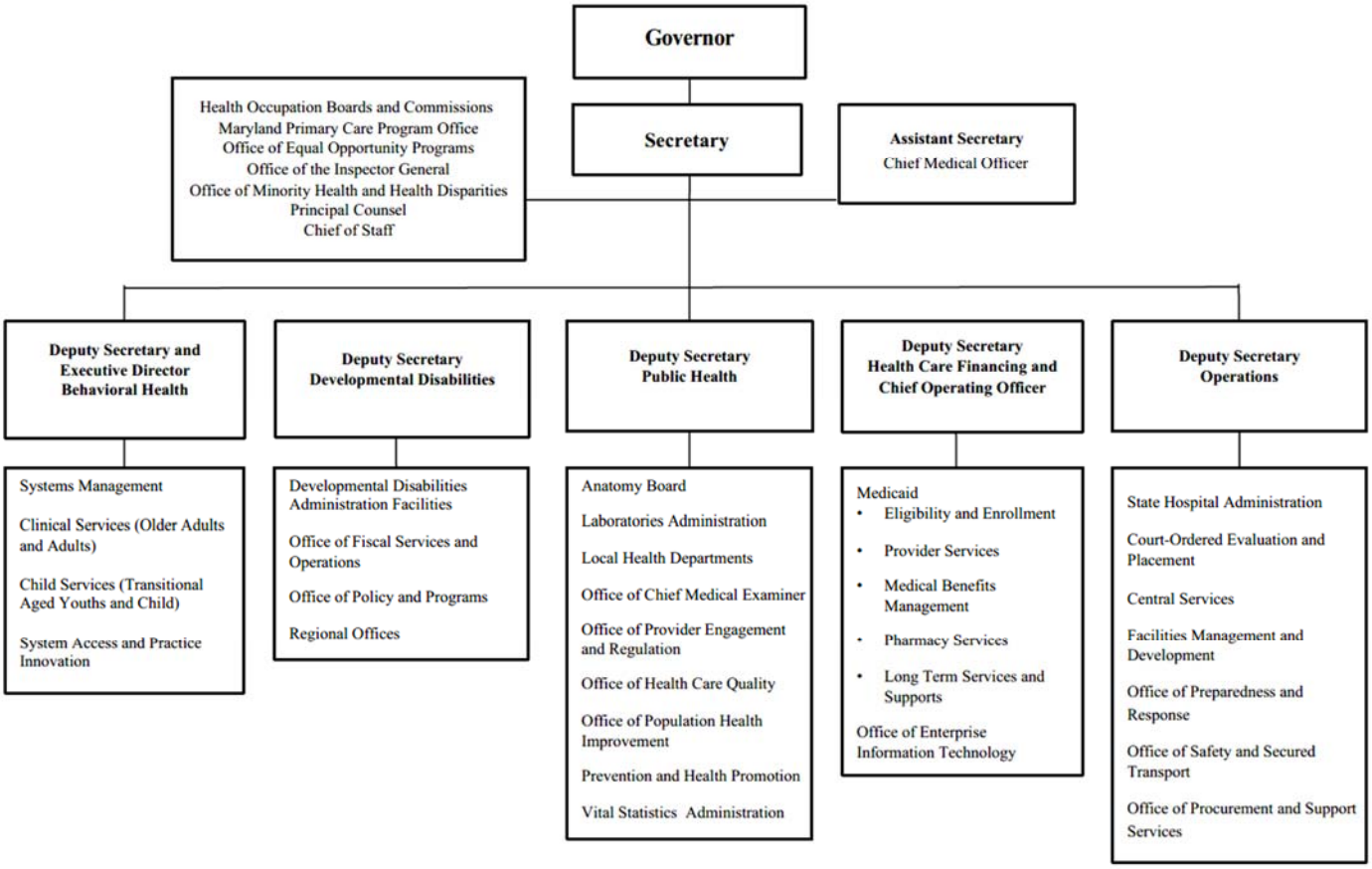
Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

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

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

Exhibit A

Maryland Department of Health Organizational Chart



Source: MDH Website (https://health.maryland.gov/docs/MDH_org_chart_master_072219%20final.pdf)

Exhibit B

Listing of OLA Audits of the Maryland Department of Health

As of December 2019

1	MDH Office of the Secretary and Other Units
2	MDH Pharmacy Programs
3	Laboratories Administration
4	Developmental Disabilities Administration
5	Behavioral Health Administration
6	Office of the Chief Medical Examiner
7	Prevention and Health Promotion Administration - Office of Population Health Improvement - Office of Preparedness and Response
8	Vital Statistics Administration
9	Regulatory Services (Health Professional Boards and Commissions, Office of Health Care Quality)
10	Health Regulatory Commissions (Maryland Health Care Commission, Health Services Cost Review Commission, Maryland Community Health Resources Commission)
	Medical Care Programs Administration
11	Primary
12	Managed Care Program
13	Behavioral Health Administration - Administrative Service Organization
	State Hospitals
14	Spring Grove Hospital Center
15	Springfield Hospital Center
16	Clifton T. Perkins Hospital Center
17	Western Maryland Hospital Center
18	Thomas B. Finan Hospital Center
19	Deer's Head Hospital Center
20	Holly Center
21	Eastern Shore Hospital Center
22	John L. Gildner Regional Institute for Children and Adolescents
23	Regional Institute for Children and Adolescents Baltimore
24	Potomac Center

APPENDIX

Maryland
DEPARTMENT OF HEALTH

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

June 25, 2020

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Hook:

Enclosed, please find the responses to the draft performance audit report on the Maryland Department of Health – Office of Secretary and Other Units for the period beginning January 11, 2016 and ending February 11, 2019.

If you have any questions, please contact Frederick D. Doggett at 410-767-0885 or email at frederick.doggett@maryland.gov.

Sincerely,

Robert R. Neall, Secretary
Maryland Department of Health

Enclosure

cc: Dennis R. Schrader, Deputy Secretary for Health Care Financing, MDH
Greg Todd, Deputy Secretary for Operations, MDH
Frederick D. Doggett, Inspector General, MDH
Dionne R. Washington, Chief of Staff, Health Care Financing, MDH

Maryland Department of Health
Office of the Secretary and Other Units

Agency Response Form

Interagency Agreements

Finding 1
MDH did not provide adequate oversight over IAs. As a result, certain IAs were used to augment MDH staff beyond budgeted positions, had administrative rates that appeared excessive, were not properly approved, and were not properly monitored.

We recommend that MDH

a. provide oversight of IAs executed by its administrations (repeat);
b. refrain from executing IAs to augment its staff (repeat);
c. ensure administrative fees are reasonable (repeat) and in accordance with MDH policy;
d. modify any agreements with excessive fees, including those noted above;
e. provide oversight of its administrations to ensure they refrain from artificially dividing IAs and reclassifying IAs as grants;
f. obtain DBM approval for all IAs over $500,000 including, those noted above; and
g. ensure all payments made under IAs are properly supported, including those noted above.

Agency Response			
Analysis	**Generally accurate.**		
Please provide additional comments as deemed necessary.			
Recommendation 1a	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	Since OLA's previous finding on IAs, MDH has taken significant steps to IA management and oversight. First, the IA template was rewritten to impose several obligations on funding recipients that did not appear in the old template. In addition, MDH developed a checklist that MDH programs must complete before being allowed to pursue an IA. After OPASS approval, the checklist is forwarded to a separate unit within MDH which supports top management decision making. That unit may make additional inquiries of programs and require a written response. Then a six-member panel reviews the checklist and memo in the presence of representatives of the program requesting the IA. The review panel includes the Secretary's Chief of Staff; MDH COO; MDH CFO, MDH Director of HR; and, MDH Director of OPASS. After an IA is entered into, program directors are responsible for monitoring compliance with contract obligations and confirming receipt of deliverables before invoices may be paid.		

Maryland Department of Health
Office of the Secretary and Other Units

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Recommendation 1b	Agree	**Estimated Completion Date:**	6/30/21
Please provide details of corrective action or explain disagreement.	At this time, in direct response to prior OLA findings, MDH has successfully eliminated all staffing IAs, except for two (2) small staffing IAs to secure highly specialized personnel to work in MDH Laboratories Administration and the Anatomy Board. Both of those IAs are approved by the Department of Budget and Management (DBM) and are justified by the specialized nature of the personnel required as DBM and MDH determined that it is more cost effective to have those personnel secured under IA rather than competitive procurement.		
Recommendation 1c	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	Subsequent to OLA's prior finding on this issue, MDH initiated a new protocol to reduce the indirect cost rates (IDC) charged through IA. The new process is as follows: program managers have authority to approve an IDC rate of 10 percent or less; if the funding recipient requests an IDC rate between 10 percent and 15 percent, the program representative is required to question the IA partner and examine any justification provided; if the IDC rate is in excess of 15 percent, program managers must forward the request to OPASS. OPASS can approve requested IDC rates between 15 percent and 25 percent when adequate justification is provided. Proposed IDC rates in excess of 25 percent are referred to the COO for review and consideration.		
Recommendation 1d	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	Since the adoption of oversight improvements arising from this audit finding, OPASS has rejected excessive IDC rates when programs present them. When this occurs, it is not unusual for the program to resubmit proposed IAs after reducing the IDC rate requested by the receiving entity.		
Recommendation 1e	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	MDH does not artificially divide IAs to circumvent the requirement of DBM review of IAs with public universities in excess of $500K. MDH has recently directed all administrations to allocate grant funding through competitive procurement, which may result in a contract award to a governmental entity. The only exception to this new rule is if the grant award specifically identifies the IA funding recipient, in which case funding is permitted using MDH as a pass-through.		
Recommendation 1f	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	MDH submits all IAs with public universities in excess of $500K to DBM for review, which is the requirement that DBM imposes upon State agencies. No exception is permitted from this requirement.		
Recommendation 1g	Agree	**Estimated Completion Date:**	Complete

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Please provide details of corrective action or explain disagreement.	All payments made by MDH are required to be properly supported in accordance with statute and regulation. OPASS offers two separate training courses on contract management to assure that program managers who are responsible for confirmation of deliverables are properly trained and counseled not to remit until all contract requirements have been confirmed and verified.

Procurements and Disbursements

Finding 2
MDH did not always comply with State procurement requirements related to sole source and emergency procurements and did not always publish contract awards, as required.

We recommend that MDH ensure that

a. **sufficient justifications exist for sole source procurements (repeat);**
b. **documented price negotiations are conducted as appropriate (repeat);**
c. **BPW is notified of emergency procurements, including the one noted above;**
d. **payments are only made subsequent to contract execution; and**
e. **all applicable contract awards are published not more than 30 days after the execution and approval of the contract, as required.**

Agency Response			
Analysis	**Generally accurate.**		
Please provide additional comments as deemed necessary.			
Recommendation 2a	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	A procurement officer's determination of sole source eligibility is required under current practice and policy, with a justification statement included in the procurement file after being approved with evidence of signature from a program director, the MDH chief of procurement and an authorized designee of the Secretary.		
Recommendation 2b	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	COMAR requires price negotiations for sole source procurements. OPASS offers training on sole source procurements which emphasizes the need not only to conduct price negotiations but also to document such negotiations in the procurement file, indicating to trainees that failure to do this will result in an audit finding. During the		

Agency Response Form

	recent onslaught of emergency procurements arising from covid-19 response efforts, programs have been routinely and repeatedly advised to negotiate pricing for those procurements as well, and in some cases this has resulted in cost reductions from originally stated pricing.		
Recommendation 2c	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	Emergency procurements do not require advance approval by BPW, but instead are authorized to be made under the limited circumstances identified in COMAR 21.05.06 which is strictly enforced by OPASS, with post-award notification to BPW required within 45 days. This aspect of emergency procurement is included and emphasized in emergency procurement training.		
Recommendation 2d	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	Payments are not permitted to be made in advance of contract execution.		
Recommendation 2e	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	MDH publishes contract awards within 30 days after contract approval, but acknowledges that among hundreds of procurements conducted each year, mistakes sometimes occur.		

Maryland Department of Health
Office of the Secretary and Other Units

Agency Response Form

Office of the Inspector General

Finding 3
The Office of the Inspector General did not always conduct a comprehensive review of contracts, payroll, and user access to MDH's automated systems during its audits of local health departments.

We recommend that MDH ensure the scope of future LHD audits includes comprehensive reviews of contracts, payroll, and user access, unless otherwise formally justified in audit planning documents.

Agency Response			
Analysis	**Factually Accurate**		
Please provide additional comments as deemed necessary.			
Recommendation 3	Agree	**Estimated Completion Date:**	September 2019
Please provide details of corrective action or explain disagreement.	The Office of the Inspector General (OIG) agrees that enhancements to the manner in which LHD audits are conducted are appropriate. The OIG has implemented additional tests within the audit plan for LHDs, including enhanced testing for contracts, payroll, and user access to automated systems. The OIG implemented the new audit plans in September 2019 and will complete audits using these new tests moving forward.		

Maryland Department of Health
Office of the Secretary and Other Units

Agency Response Form

Payroll

Finding 4
MDH had not established adequate controls to ensure the propriety of biweekly payroll payments, leave balances, and timesheets.

We recommend that MDH

a. **independently verify pay and leave balance adjustments to ensure that only authorized adjustments have been processed and take appropriate corrective action when errors are noted;**
b. **retroactively verify that the time recorded on timesheets approved by CPU was actually worked; and**
c. **reconcile total payroll as reflected in CPB payroll registers each pay period with SPS payroll summary reports, investigate any differences, and ensure that those reconciliations are documented.**

Agency Response			
Analysis	**Factually Accurate**		
Please provide additional comments as deemed necessary.			
Recommendation 4a	Agree	**Estimated Completion Date:**	September 2019
Please provide details of corrective action or explain disagreement.	Since the time the new personnel system was implemented, MDH Payroll has utilized "Timekeeping Change" forms to adjust any previously submitted time. This form and process sometimes involves leave balance adjustments and requires multiple level sign-offs. Effective September 2019, in cooperation with DBM, MDH Payroll completes an "External Audit Checklist" each time a manual payroll input is submitted to DBM. The checklist is comprised of numerous requirements for the processing of manual payroll input and ensures a separation of duties. The party who submits the change content cannot verify the input and that input is then verified by a third party (MDH Payroll Management).		
Recommendation 4b	Agree	**Estimated Completion Date:**	8/1/20

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Please provide details of corrective action or explain disagreement.	Supervisors or timekeepers who are responsible for entering time on behalf of other employees are responsible for confirming the hours actually worked. When time is entered by supervisors or timekeepers, MDH Payroll presumes that the hours are correct as they were entered by an individual who has direct knowledge of the employee's work hours. In the event an employee does not submit any time at all, MDH Payroll attempts to contact the employee and/or the employee's supervisor, to complete the time sheet utilizing the normal protocol. In the event the employee and supervisor cannot be located, MDH Payroll enters paid leave from the employee's existing leave balance so that the employee does not miss a paycheck. In this circumstance, the employee then receives a message in his/her Inbox notifying them that someone edited their timesheet so that they may verify that the time entered was accurate. Additionally, MDH Payroll contacts the employee's supervisor and the employee to notify them that leave time was entered on their behalf because no time was entered by the employee or his/her supervisor. Timesheet change forms are provided for any corrections to the time entered by MDH Payroll that may be required.		
Recommendation 4c	Agree	**Estimated Completion Date:**	Complete
Please provide details of corrective action or explain disagreement.	MDH Payroll has an internal reconciliation process in place, using the Payroll Summary Report, which has effectively replaced the CPB check registers, in order to capture all employees' payroll activity. The Payroll summary report provides a breakdown of all earning components, and is reconciled with various other reports (accident leave, leave without pay, overtime, shift differential, uniform bonuses, education reimbursement, bilingual pay, acting capacity, etc.) in order to validate various earning components. Prior to implementation of the new personnel system, the check register was the main tool we had available to validate pay results. Additionally, reconciliation is built into the personnel system's process and involves MDH, DBM, and CPB. MDH Payroll submits transactions and hours worked for each employee to DBM. DBM then converts this information into the gross dollars due each employee and submits to CPB. Whenever CPB's results don't match DBM's submission, those results are sent to DBM who analyzes the cause and sends error reports to MDH. MDH then corrects the error, resubmits to DBM, DBM compares the new submission to the requirement then finalizes the process with CPB. Budget and Finance Partners in health departments, facilities and headquarters receive the CPB file and compare.		

Maryland Department of Health
Office of the Secretary and Other Units

Agency Response Form

Information Systems Security and Control

Finding 5
Intrusion detection prevention system coverage for the MDH network was not adequate for blocking malicious traffic.

We recommend that MDH configure its network-based IDPS components to prevent high-risk malicious traffic from entering the network and to continuously log lower-risk malicious traffic for review and possible investigation.

Agency Response			
Analysis	**Factually Accurate**		
Please provide additional comments as deemed necessary.			
Recommendation 5	Agree	**Estimated Completion Date:**	1/21/20
Please provide details of corrective action or explain disagreement.	MDH has implemented this recommendation as of 1/21/2020. It should be noted that with previous attempts by MDH to implement such blocking, it interfered with normal business functions as certain medical content was being falsely identified as malicious content. Going forward, MDH is exploring options to expand/enhance security, firewall and SOC services to improve overall security posture.		

Finding 6

Information technology contractors had unnecessary network-level access to the MDH network.

We recommend that MDH

a. **limit IT contractors' network-level access to only those network devices and ports required for them to perform their duties (repeat); and**
b. **create and maintain, on a current basis, a centralized schedule of all IT contractor personnel working onsite within MDH and use this schedule to ensure that network-level access for these contractors is appropriately limited as noted in the aforementioned recommendation (repeat).**

Agency Response

Maryland Department of Health
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Analysis	**Factually Accurate**		
Please provide additional comments as deemed necessary.			
Recommendation 6a	Agree	**Estimated Completion Date:**	1/31/22
Please provide details of corrective action or explain disagreement.	While MDH concurs with this finding, meeting the technological requirements of it have proven to be challenging to implement. OET has asked DoIT for insight or recommendations for how they or other large departments within Maryland have met this requirement.		
Recommendation 6b	Agree	**Estimated Completion Date:**	7/30/21
Please provide details of corrective action or explain disagreement.	Meeting this recommendation will require a holistic approach across multiple MDH business units (IT, HR, Procurement). OET can identify and determine, by MDH location, who has network directory and email accounts. However, cataloging which accounts belong to vendor contractors will require input from HR, Procurement and the local business units on a continual basis to keep the catalogue of contractors updated as well as what network resources each should have access to.		

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