Audit Report

# Department of Budget and Management
# Office of Personnel Services and Benefits

January 2023

**OFFICE OF LEGISLATIVE AUDITS**
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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Legislative Auditor

January 20, 2023

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Jared Solomon, 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 Department of Budget and Management (DBM) – Office of Personnel Services and Benefits (OPSB) for the period beginning September 8, 2017 and ending October 31, 2021. OPSB develops the State's personnel policies for Executive Branch State agencies subject to the State Personnel Management System (SPMS), administers the health care benefit programs for State employees and retirees, and has other responsibilities, including salary administration and classification, recruitment and examination, and employee relations. OPSB also provides centralized support to agencies for the State's Statewide Personnel System (SPS).

Our audit disclosed that OPSB did not attempt to recover approximately $1.2 million in liquidated damages and invalid claim payments identified during audits of employee benefit programs, and program audits and claim reviews were not always completed in a timely manner.

Our audit also disclosed conditions where OPSB, by virtue of its centralized administrative responsibilities, could enhance monitoring of State agencies' payroll and personnel actions to ensure compliance with State laws, regulations, or rules. Specifically, OPSB did not have comprehensive procedures to monitor and ensure the resolution by SPMS agencies of all outstanding payroll discrepancies, such as the lack of a completed or approved employee timesheet for a particular pay period, and we found that discrepancies often remained unresolved for extended periods. Although the applicable agency bears responsibility for ensuring the resolution of all discrepancies associated with its employees, in our opinion, effective monitoring by OPSB is necessary to help ensure that all discrepancies are resolved and improper payroll payments have not been made. We also noted that OPSB did not have comprehensive procedures to ensure that employees who were terminated or left State service were removed from the payroll, and we noted that employees were frequently not removed timely, and that questionable payments were made to certain employees after their effective termination date.

Another area where we believe that enhanced OPSB engagement would be beneficial is the centralized monitoring of State agency overtime. We found that OPSB did not have a comprehensive process to monitor or periodically evaluate SPMS agency overtime, and did not have guidance for agencies to manage overtime usage and address excessive overtime levels. Highlighting the desirability of enhanced OPSB involvement is our identification, using SPS records, of over 2,500 employees who received overtime payments in calendar year 2021 that totaled 50 percent or more of their regular base salary, including 549 employees whose overtime earnings exceeded their base salary.

Our audit also disclosed that OPSB did not ensure that employees terminated with prejudice were properly recorded as such in the State's database and, as required by law, were not rehired by SPMS agencies.

Finally, our audit also included a review to determine the status of the six findings contained in our preceding audit report. We call your attention to our determination that OPSB satisfactorily address all of the prior audit findings.

DBM's response to this audit, on behalf of OPSB, is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues.

We wish to acknowledge the cooperation extended to us during the course of this audit by OPSB. We also wish to acknowledge DBM's and OPSB's 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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# Background Information

## Agency Responsibilities

The Department of Budget and Management (DBM) – Office of Personnel Services and Benefits (OPSB) directs the development of personnel policies for Executive Branch State agencies subject to the State Personnel Management System (SPMS), and performs a variety of other functions for these agencies, including salary administration and classification, recruitment and examination, employee relations, and providing centralized support for the State's Statewide Personnel System (SPS).

Certain Executive Branch agencies (primarily the Maryland Department of Transportation and the University System of Maryland) and the Judicial and Legislative branches of State government maintain their own personnel systems and related policies, are not subject to SPMS, and for the most part do not use SPS.  OPSB also administers the health care benefits programs for all State employees and retirees (see comments below), and the flexible spending accounts for all State employees regardless of which personnel system they are in.

## Statewide Personnel System

SPS provides a comprehensive human resource and payroll system through the use of a commercial off-the-shelf software platform configured for the State by a contractor.  SPS is a cloud-based application hosted and operated by a third-party service provider; and is used by SPMS agencies to record personnel transactions, such as appointments, promotions, certain salary adjustments, and for the recordation and maintenance of time and leave transactions and records.  SPS is used by all State agencies for purposes of health benefits.

Implementation of SPS for the State was divided into three phases.  Phase I was implemented in November 2014 and replaced the former automated human resource processes (personnel transaction system) maintained by DBM.  Phase II was launched in May 2016 for most agencies and fully implemented in October 2016 and included timekeeping, calculation of gross payroll, and leave administration.  Phase III was implemented in January 2019 and provides a comprehensive employee benefits administration module.  We conducted a separate review of the application controls over SPS and matters related to its implementation, and a separate report was issued dated March 7, 2019. Consequently, our current audit of OPSB did not include an examination of SPS application controls or matters related to implementation, which will be subject to audit in a future review.

## Health Care Benefits Administration

The State makes health care benefits available for all of its employees and retirees (including their spouses and dependents). Below is a description of the benefits and the base period covered by the current contracts.[1]

- Health care coverage is provided through three major insurance providers that administer preferred provider organization (PPO), exclusive provider organization (EPO), and integrated health model (IHM) plans. Mental health care coverage is included in these health care plans. The current contracts, which include the original six-year contract term and the first of 2 two-year renewal options, cover the period from January 1, 2015 to December 31, 2022.

- Dental insurance is provided through two plans offered by two separate providers that administer a preferred provider organization (DPPO) and a health maintenance organization (DHMO). The current dental plan contracts are in effect from January 1, 2020 to December 31, 2024. There are no renewal options.

- Prescription drug coverage is provided through a pharmacy benefit manager. The current contract, which includes the base year and the first of 2 two-year renewal options, is in effect from January 1, 2018 to December 31, 2022.

The State also provides for a Health Care Flexible Spending Account program. In total, the aforementioned benefits are provided through 12 individual plans or programs, which are administered (including claims processing) by 7 contracted vendors or administrators.

The State directly pays claims for the PPO, EPO, prescription drug plan, and DPPO plans. It self-funds these plans and accepts the risk for all costs associated with these plans. For the IHM and DHMO plans, the State pays an insurance premium to the provider and the provider accepts the risk associated with the benefits. The costs for annual health care benefits have increased from approximately $1.7 billion for fiscal year 2018 to approximately $2.0 billion for fiscal year 2021. Health care enrollment and costs paid in fiscal year 2021 for plan participants, which include State employees, retirees, spouses, dependent children, direct pay participants, and satellite agency participants (such as covered employees of local governments) are summarized in Figure 1.

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[1] The procurement of these contracts for periods after their current expiration dates will be subject to review during future audits of DBM – Office of the Secretary.

**Figure 1**
**Plan Participants in the State of Maryland's Health Benefits Programs and the Related Costs for Fiscal Year 2021**

| Plan Type | Enrollment (as of January 1, 2021) | Dollar Claims Paid | Administrative Expenses Paid | Premiums Paid | Total Payments |
|---|---|---|---|---|---|
| PPO | 54,312 | $429,959,235 | $31,503,142 | N/A | $461,462,377 |
| EPO | 65,428 | 679,918,898 | 27,766,978 | N/A | 707,685,876 |
| IHM | 3,425 | N/A | N/A | $28,676,668 | 28,676,668 |
| POS (Note 1) | 213 | 1,880,368 | 102,960 | N/A | 1,983,328 |
| Prescription Drug | 114,019 | 685,334,917 | 9,827,290 | N/A | 695,162,207 |
| Dental PPO | 100,020 | 51,516,479 | 1,723,000 | N/A | 53,239,479 |
| Dental HMO | 14,850 | N/A | N/A | 4,323,601 | 4,323,601 |
| **Totals** | | **$1,848,609,897** | **$70,923,370** | **$33,000,269** | **$1,952,533,536** |

N/A – not applicable.
Note 1 – The point of service (POS) plan was available only to members of the State Law Enforcement Officers Labor Alliance bargaining unit.
Source: OPSB records

## COVID Administrative Leave

In response to the COVID-19 pandemic, the Governor declared a State of Emergency during the period from March 5, 2020 through July 1, 2021, and subsequently ordered DBM to impose a period of mandatory telework for all non-essential State employees subject to OPSB oversight. Consequently, mandatory telework was implemented for all SPMS agencies effective March 13, 2020. Essential employees were still required to report to their workplace and non-essential employees unable to perform their duties from home were placed on administrative leave. In this regard, OPSB made available the 'COVID Administrative Leave' code for use between the period of March 15, 2020 and July 1, 2021 to capture and record time for State employees placed on administrative leave during this period. According to OPSB's records, a total of

235,100 days of COVID Administrative Leave was used by employees within SPMS agencies during this period. According to OPSB, the vast majority of this leave was taken prior to July 1, 2020 as OPSB directed agencies in June 2020 to return employees to the office if they were unable to telework. Figure 2 shows the five units with the highest number of leave days taken, as well as the total taken by all other agencies within SPMS (note, the dollar value of the leave taken was not readily available at the time of our audit).

**Figure 2**
**COVID Administrative Leave Taken by SPMS Agencies**
**(Five Largest Users and All Others)**
**March 15, 2020 to July 1, 2021**

| Agency | Number of Employees Using Administrative Leave | Administrative Leave in Days |
|---|---|---|
| Maryland Department of Health | 3,160 | 77,857 |
| Department of Human Services | 2,047 | 44,220 |
| Comptroller of Maryland | 1,100 | 23,449 |
| Department of Public Safety and Correctional Services | 633 | 18,442 |
| Department of Natural Resources | 345 | 7,538 |
| Other (42 other agencies combined) | 3,021 | 63,594 |
| **Total** | **10,306** | **235,100** |

Source: OPSB Records

## Performance Audits

During the audit period, we conducted two performance audits related to OPSB activities.

State Employee Performance Evaluation Program
We issued a performance audit report dated June 27, 2018 on our examination of the State Employee Performance Evaluation Program (PEP). Our audit generally included assessments of OPSB's efforts to ensure performance evaluations were completed for all employees, evaluations were completed properly in accordance with pre-established requirements, and evaluation results were accurately reported to the Governor and the General Assembly. The report contained eight findings, five of which were directed to OPSB as follows:

- **Finding 1** - Many employees had not received required evaluations during a five-year period and OPSB had not established a comprehensive strategy to improve agency compliance or ensure agencies monitored their efforts.
- **Finding 2** - OPSB did not disclose certain information in the Annual Personnel Report needed to better interpret and clarify the performance evaluation results. In addition, complete records supporting the Report were not maintained and controls were not established to ensure the accuracy of the underlying data.
- **Finding 3** - OPSB had not established a process to ensure performance evaluations were based on measurable standards and their content met legal requirements.
- **Finding 4** - OPSB did not clearly set the expectations for required mandatory PEP-related training for supervisory and managerial employees, require the maintenance of agency-based training records, or monitor agency training efforts.
- **Finding 5** - OPSB had not developed approaches to formally evaluate the effectiveness of the PEP and the training courses for managers and supervisors.

<u>Management Training</u>
We issued a performance audit report dated September 25, 2018 on our examination of training offered to management employees of agencies under the authority of DBM. The primary focus of this audit was on the actions and responsibilities of DBM and OPSB as they related to management training. The performance audit included the following two findings:

- **Finding 1** - DBM had not established a formal Statewide training program for management employees in SPMS to help them develop their skills and perform their duties efficiently.
- **Finding 2** - DBM had not established regulations or policies that would provide guidance to and oversight of State agencies that separately established training programs, to help ensure their managers had access to quality training.

DBM, on behalf of OPSB, provided a status of corrective actions taken as of April 15, 2022 in response to the aforementioned seven findings. The findings included 22 recommendations, and as depicted in Exhibit A, DBM reported that 19 of the 22 recommendations had been "completed", with the remaining 3 being "in progress". Our current audit of OPSB did not include an evaluation of the sufficiency or accuracy of these assertions by DBM due to the timing of these reports and our assessment of the significance and risk associated with these assertions relative to our current audit objectives.

## Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the six findings contained in our preceding audit report dated May 14, 2019. We determined that OPSB satisfactorily addressed these findings.

# Findings and Recommendations

## Audits of Employee Benefit Programs

**Background**
The Department of Budget and Management (DBM) – Office of Personnel Services and Benefits (OPSB) contracts with two vendors to conduct annual audits of the State's Medical, Dental, Prescription Drug Benefits, and Flexible Spending Account employee benefit programs. A separate audit is required for each of the programs' 12 plans which are administered by 7 different vendors or plan administrators. The scope of these audits includes, administrative and operational procedures, claims processing (accuracy, timing, and compliance), and compliance with performance guarantees and other contract requirements. The results of these audits are communicated to OPSB and plan administrators, and may require corrective action including changes in procedures and payment of liquidated damages. Audits conducted for the 2018 plan year (the most current completed as of the time of our audit) identified 74 findings as depicted in Figure 3, and resulted in approximately $565,000 in liquidated damages being collected from six plan administrators.

**Figure 3**
**Audit Deficiencies by Area**
**(Plan year 2018 Audit Results)**

| Audit Area | Count of Deficiencies |
|---|---|
| Administrative and Operational Procedures | 3 |
| Claims Processing | 30 |
| Performance Guarantees | 23 |
| Compliance with Contract Terms | 2 |
| Clinical Processes | 16 |
| Internal Audits | 0 |
| **Total** | **74** |

Source: OPSB audit records

In addition, OPSB personnel perform annual claims eligibility audits to ensure that claims processed and paid by plan administrators and reimbursed by OPSB are for valid and eligible participants. These audits review selected payment activity during a plan year to identify instances where invalid claims were paid, such as claims paid for individuals whose coverage had lapsed. Depending on the cause of the invalid claim and payment, OPSB will seek reimbursement from the plan administrator or the plan participant.

**Finding 1**
**OPSB did not attempt to recover approximately $1.2 million in liquidated damages and invalid claim payments identified during certain 2017 and 2018 audits.**

**Analysis**
OPSB did not attempt to recover approximately $1.2 million in liquidated damages and invalid claim payments identified during certain 2017 and 2018 audits of the employee benefit programs. As noted above, OPSB has collected liquidated damages from certain plan administrators; however, we found that OPSB did not have a formal policy on the collection of liquidated damages and that liquated damages identified by audits were not always collected.

- OPSB did not pursue the liquidated damages identified during the audit of the former Prescription Drug Benefits program administrator for plan year 2017. The draft audit report was presented to OPSB management in July 2020 and recommended liquidated damages totaling approximately $860,000. The administrator disputed $555,000 of the liquidated damages because, in general, it believed it either met the performance guarantees cited as being missed, or the impact of missing the guarantees did not merit a liquidated damage. OPSB did not pursue the disputed damages or collect the $305,000 in undisputed damages. We were advised by OPSB that it had meetings with the vendor to resolve the disputed claims, however due to the COVID-19 pandemic; these discussions had stopped and were not resumed due to an oversight. After bringing this to OPSB's attention, it reopened negotiations of this matter with the prior administrator. Subsequently, the aforementioned audit was finalized, and all parties agreed to liquidated damages of $378,200, which OPSB collected in March 2022.

- OPSB had not attempted to recover approximately $302,000 due from program participants for invalid payments identified during its claims eligibility audits for plan year 2018, which were completed in February 2020. In April 2020, OPSB suspended billing program participants because of the Governor's financial relief initiatives implemented because of the COVID-19 pandemic. Although those initiatives, including the suspension of billings were lifted in July 2021, as of March 2022, OPSB had not billed for the aforementioned $302,000. According to OPSB management, turnover in key management positions within the unit responsible for this process and changes in operations have delayed billings, but they still plan to pursue the amounts due.

**Recommendation 1**
**We recommend that OPSB**

**a. implement a formal policy on the collection of liquated damages, including when to pursue damages and a formal approval process when declining to collect damages due the State; and**

**b. ensure that amounts due from plan participants identified in claims eligibility audits are billed in a timely manner, including the claims noted above.**

**Finding 2**
**Audits of benefit program plans and claims eligibility were not completed in a timely manner.**

**Analysis**
Audits of benefit program plans and claims eligibility were not being completed within the timeframes required by the applicable contracts or OPSB policy. Consequently, potential program deficiencies and any related amounts due the State, such as liquidated damages, were not being identified in a timely manner.

- OPSB did not ensure that all benefit program plan audits were conducted as required. OPSB contracted with two vendors to audit the 12 employee benefit plans within one year of the end of each plan year (or December 31 since all plans operate on a calendar year basis). Our review disclosed that as of January 2022, no audits had been completed for the 2019 and 2020 plan years and 1 of the 12 audits was not completed for the 2018 plan year.

  Although OPSB was aware of these delays and worked with the vendors to facilitate completion and avoid additional delays, the vendors did not complete all the required audits. We were advised by OPSB management that the delays were due primarily to the COVID-19 pandemic and a change in audit vendors. The audit vendors were paid approximately $2.2 million between fiscal years 2018 and 2021. The contracts did not provide for damages for failure to complete audits on time, limiting OPSB options to address the delays.

- As of January 2022, OPSB had not completed claims eligibility audits of the State's Medical, Dental, and Prescription Drug Benefits employee benefit programs for plan years 2019 (due December 2020) and 2020 (due December 2021). We were advised by OPSB management that its unwritten policy is that claims eligibility audits are to be completed within one year of the end of the plan year. OPSB management advised that it generally performs six audits for each plan year, and that the delays noted were mostly due to lack of staffing. We were further advised that the overdue audits were in progress but no estimate for completion was provided.

**Recommendation 2**
**We recommend that OPSB**

a. **ensure that all audits are completed within the required timeframe,**
b. **complete the past due audits of plan administrators and claims eligibility noted in this finding,**
c. **consider including in future audit contracts a provision for financial penalties or liquidated damages for failure to meet established deadlines, and**
d. **formalize in writing the required timeframe for completing claims eligibility audits.**

## Monitoring of State Personnel Management System Agency Payroll

**Background**
OPSB is responsible for receiving and consolidating payroll activity from 56 State Personnel Management System (SPMS) agencies for submission to the State's Central Payroll Bureau (CPB) to process employee payroll which totaled approximately $4.0 billion during fiscal year 2021. Generally, each SPMS agency is responsible for administering its own payroll activity, including generating and reviewing system-generated error reports to help them identify, investigate, and correct discrepancies, such as employee timesheets with no time entered, no time submitted, or no time approved. Ideally, agencies should correct all errors prior to OPSB submitting the payroll to CPB to prevent improper payments. However, if all discrepancies are not corrected prior to the deadline for payroll submission, SPMS agencies still submit their payroll to OPSB for processing. OPSB advised that it requires SPMS agencies to certify that they are submitting accurate payroll information for the employees of their agency, and they are responsible to resolve any inaccuracies identified or adjustments needed.

OPSB generates similar error reports that are intended to assist agencies in correcting any discrepancies prior to forwarding the payroll to CPB. OPSB will normally email copies of these reports to the agencies with outstanding discrepancies requiring correction. However, the existence of uncorrected discrepancies will not stop the processing of payroll by CPB. Consequently, in our opinion, it is critical that all outstanding discrepancies be investigated and resolved, regardless of the specific agency involved, to ensure that all payroll payments were valid.

**Finding 3 (Policy Issue)**
**OPSB did not have comprehensive procedures to monitor and ensure that SPMS agencies addressed all outstanding payroll discrepancies. Our review disclosed that agencies were not correcting discrepancies, which resulted in potentially improper payments going undetected.**

**Analysis**
OPSB did not have comprehensive procedures to monitor and ensure that SPMS agencies addressed all outstanding State payroll discrepancies. Specifically, OPSB did not monitor and address the unresolved discrepancies with applicable agencies, even though State Personnel System (SPS) reports of Statewide unresolved discrepancies remaining after the payroll was processed were available. Consequently, our review of the *No Time Entered* reports (report of employees who did not prepare a timesheet) as of August 2022 for the three pay periods between January 12, 2022 and February 22, 2022, identified 113 employees at 26 different SPMS agencies who still remained on one or more of the reports (including 18 that were on all three reports) because no timesheet had been prepared. These employees received compensation totaling approximately $470,500 for the three pay periods reviewed (see Figure 4).[2]

**Figure 4**
**Agencies with Unresolved Employees on the *No Time Entered* Reports as of August 2022 that Received Compensation**
**January 12, 2022 to February 22, 2022**

| Agency/Department | Number of Employees without a Timesheet | Regular Earnings Paid |
|---|---|---|
| Maryland Department of Health | 39 | $202,475 |
| Maryland Department of Labor | 21 | 36,104 |
| Department of Public Safety and Correctional Services | 9 | 21,956 |
| Department of Human Services | 8 | 15,803 |
| State Board of Elections | 7 | 23,588 |
| 21 other agencies | 29 | 170,566 |
| **Totals** | **113** | **$470,492** |

Source: Statewide Personnel System Workday and State Payroll Records

[2] OLA did not research the causes of these discrepancies or the actions taken by the various State agencies to resolve the conditions.

State regulations generally require a time record signed by the applicable employee and approved by supervisory personnel unless a written exemption is obtained. The temporary absence of a timesheet does not necessarily mean that the employee did not work during the applicable pay period (for example, an employee may have been on leave and/or forgot to submit a timesheet). However, a timesheet should be submitted upon return to work and certainly by six months after the employee appeared on the report.

**Recommendation 3**
**We recommend that OPSB**

**a. develop comprehensive procedures to effectively ensure SPMS agencies resolve all outstanding payroll processing discrepancies timely, including the aforementioned 113 employees for whom no timesheet was submitted; and**

**b. establish and take appropriate corrective action for agencies that fail to resolve the discrepancies timely.**

**Finding 4**
**OPSB did not have comprehensive procedures to identify employees who were terminated or left State service, and were not removed from the payroll timely. Our review disclosed that agencies were not removing these employees timely and payments were made after those employees left State service.**

**Analysis**
OPSB did not have comprehensive procedures to identify employees who were terminated or left State service and were not removed from the payroll in a timely manner. If the agency fails to timely remove employees from the payroll, the employee may continue to be paid.

We obtained a report of all terminations processed in SPS for fiscal year 2022 and compared the effective date of the termination to the date it was processed in SPS. Our review disclosed that 1,556 terminations were processed in SPS more than five days after the employee’s actual effective date of termination. For example, in many of these cases we noted that the employee received no payments after termination or the employee received payments associated only with the last pay period worked. However, we noted 68 employees within eight agencies who received regular earnings totaling approximately $222,500 for time after their effective date of termination (Figure 5).

**Figure 5**

**Agencies that Did Not Timely Process Terminations in SPS Resulting in Employees with Questionable Payments After Their Effective Termination Date**

**Fiscal Year 2022**

| Agency/Department | Number of Employees With Questionable Payments | Regular Earnings Paid |
|---|---|---|
| Department of Public Safety and Correctional Services | 19 | $70,064 |
| Maryland Department of Health | 17 | 49,673 |
| Department of Human Services | 12 | 33,252 |
| State Department of Education | 9 | 35,611 |
| 4 other agencies | 11 | 33,863 |
| **Totals** | **68** | **$222,463** |

Source: SPS Workday and State Payroll Records

Terminations for the aforementioned 68 employees were processed and recorded in SPS between 2 and 121 days after their effective date of termination. Our test of 12 of these employees disclosed 11 payments totaling $44,100 after the employees were terminated that appeared to be improper.[3] The applicable agency or OPSB had already detected and recovered 4 of these improper payments, but there was no documentation in SPS that the remaining 7 with payments totaling $35,200 were detected and resolved.

OPSB advised us that, other than providing certain instruction and guidance to agencies, it does not have the authority or means to require and ensure compliance and correction of these conditions. However, our review of the memorandum of understanding between CPB and OPSB disclosed that DBM certifies and is responsible for the transactions that fall under its authority, which include the potentially erroneous payroll charges. At a minimum, OPSB should work in a collaborative manner with SPS agencies to establish an acceptable mechanism to detect and recover any improper payments, and at the same time identify and provide additional guidance to those agencies that incur improper payments because terminations are not processed in SPS on a timely basis.

[3] The remaining employee was paid for accumulated leave days after the final termination date.

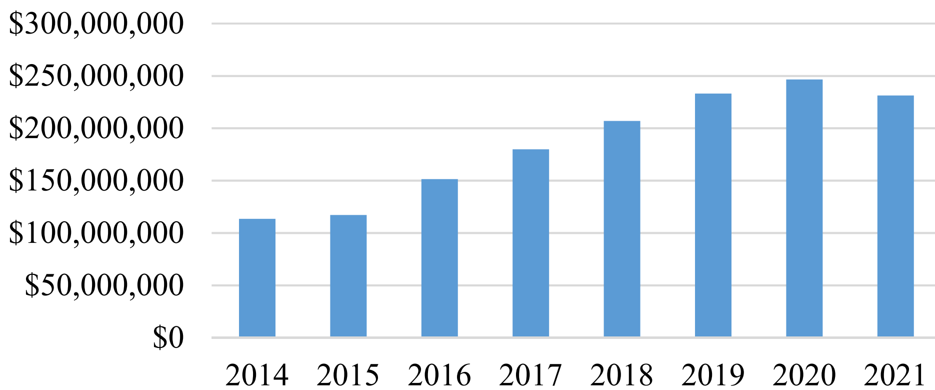
**Recommendation 4**
**We recommend that OPSB**

a. **develop comprehensive procedures to identify employees who were terminated or left State service and were not removed from the payroll in a timely manner;**
b. **use that data to identify any regular earnings paid after an employee left State service, and investigate and recover any amounts improperly paid, including those noted above; and**
c. **provide additional guidance to agencies that consistently fail to remove terminated employees from the payroll in a timely manner, and as a result increase the potential for invalid payroll payments.**

## Monitoring of Excessive Overtime

**Background Information**
The State Personnel and Pensions Article of the Annotated Code of Maryland provides that an employee who works more than the normal workweek is entitled to compensation in the form of payment or compensation time. In general, payment for time worked in excess of 40 hours in a workweek is one and one-half times the employee's regular hourly rate of pay. Certain employees with modified workdays, such as law enforcement employees, calculate overtime based on the greater of time worked in excess of 40 hours in a workweek or time worked in excess of an established workday. As depicted in Figure 6, SPMS agency overtime has increased significantly from approximately $113.5 million in 2014 to $231.3 million in 2021.

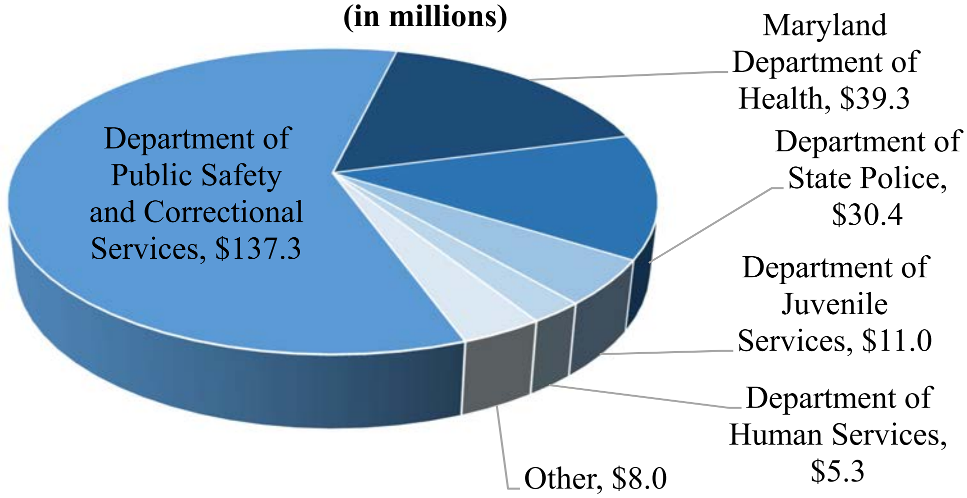
**Figure 6**
**SPMS Agency Overtime**
**Calendar Years 2014 to 2021**




Source: Central Payroll Bureau Payroll Records

OPSB advised that each SPMS agency is responsible for employees' schedules, managing the workload for the agency, overseeing overtime, and ensuring they are within budget. During this period, five departments consistently had the majority of overtime within SPMS agencies. For example, as depicted in Figure 7, these departments made up approximately 97 percent of SPMS agency overtime in calendar year 2021.

**Figure 7**
**Overtime in Select SPMS Agencies**
**Calendar Year 2021**
**(in millions)**




Source: Central Payroll Bureau Payroll Records

According to OPSB personnel, overtime at the five departments is higher than other State agencies due in part to high vacancy rates, minimum staffing level requirements (such as for prison guards), and scheduling challenges. Vacancy rates have increased statewide, and the aforementioned departments had vacancy rates of between 12.7 percent and 14.7 percent as of January 2022 (see Figure 8 on the following page). Intuitively, vacancies compound the need for overtime at these agencies and also increase the risk of abuse.

**Figure 8**
**Vacancy Rates as of January 2022**
**for Select SPMS Agencies**

| Agency/Department | Vacancy Rate (as of January 2022) |
|---|---|
| Department of Public Safety and Correctional Services (DPSCS) | 14.1% |
| Maryland Department of Health (MDH) | 12.9 |
| Department of State Police | 13.1 |
| Department of Juvenile Services | 12.7 |
| Department of Human Services | 14.7 |
| **Average Vacancy Rate for Remaining Executive Agencies** | **11.2** |

Source: Central Payroll Bureau Payroll and the Department of Legislative Services

Due to the significance of overtime charges throughout the State, we analyzed overtime data available from OPSB and reviewed actions taken by OPSB to identify the causes, monitor agencies' overtime practices, and suggest or coordinate corrective actions to lessen the State's reliance on overtime usage. Based on that review, we believe that certain additional efforts on the part of OPSB could help address persistent significant overtime use.

**Finding 5 (Policy Issue)**
**OPSB did not have a comprehensive process in place to formally monitor or periodically evaluate SPMS agency overtime, and did not have guidance for agencies to manage overtime usage, and justify or prepare a plan to address actions to minimize or limit excessive overtime levels. We identified high overtime levels at several agencies, including 549 employees whose overtime earnings consistently exceeded their regular base salary.**

**Analysis**
OPSB did not monitor or periodically evaluate SPMS agency overtime in a formal and comprehensive manner; and did not prepare guidance for agencies to manage overtime usage, and justify or prepare a plan to address excessive overtime levels. We identified high overtime levels at several agencies including 549 employees whose overtime earnings consistently exceeded their regular base salary; yet there was no formal analysis or follow up by OPSB to determine the cause(s) or ensure it was justified (that is, necessary).

OPSB Did Not Effectively Monitor SPMS agency Overtime Usage

OPSB did not effectively monitor SPMS agency overtime usage. For example, OPSB sent agencies a report of individuals receiving compensation of more than $10,000 in a given pay period (which could be due to large amounts of overtime) for additional review. Additionally, DBM personnel maintained year-to-date overtime statistics by employee and agency that it primarily used for agency budget analysis purposes. However, these procedures were not comprehensive and were not focused on identifying the cause(s) and corrective action(s) for potentially excessive overtime usage.

For example, OPSB did not analyze payroll data to identify employees who earned excessive overtime (such as more than 50 percent of their regular base salary), or consistently had material overtime for extended periods. Our analysis of SPMS payroll data between calendar years 2014 and 2021 disclosed that certain employees consistently received significant amounts of overtime. For example, 2,537 employees received overtime payments in calendar year 2021 that totaled 50 percent or more of their regular base salary, including 549 employees whose overtime earnings exceeded their base salary. Many of these 549 employees also received overtime pay that exceeded their regular base salary in more than one year during calendar years 2017 through 2020. See Figure 9 for examples of five employees who received overtime pay well in excess of their regular earnings for calendar years 2019 through 2021, including two cases in which overtime exceeded twice the employee's base salary.

**Figure 9**
**Examples of Employees with Significant Overtime Earnings in Excess of Regular Salary for Multiple Years**

| Example | Agency | 2021 | | 2020 | | 2019 | |
|---|---|---|---|---|---|---|---|
| | | Regular | Overtime | Regular | Overtime | Regular | Overtime |
| Employee 1 | DPSCS | $89,000 | $134,700 | $83,000 | $166,900 | $63,200 | $118,300 |
| Employee 2 | MDH | 106,100 | 181,500 | 91,300 | 143,800 | 78,400 | 139,400 |
| Employee 3 | MDH | 68,700 | 117,500 | 53,000 | 101,800 | 47,700 | 66,700 |
| Employee 4 | MDH | 82,500 | 134,600 | 63,900 | 96,000 | 46,000 | 100,800 |
| Employee 5 | MDH | 103,800 | 174,400 | 74,900 | 131,800 | 62,900 | 96,600 |

Source: Central Payroll Bureau Payroll Records

OPSB also did not analyze payroll data to identify employees who consistently earned overtime while also using paid leave. SPMS regulations and the State's collective bargaining agreements include paid leave in worktime. Therefore, employees' personal, annual, sick, and other types of paid leave usage is counted towards meeting the aforementioned 40-hour workweek requirement. For example, if an employee's normal workday is 8 hours, and they took 4 hours of annual leave one day, but then worked 8 hours the same day, they would earn 4 hours of overtime for that day since the annual leave would be considered work time.

We analyzed calendar year 2021 payroll records of one large Executive Branch department and noted there were 2,417 employees with one or more instances where they received over $1,000 in gross overtime earnings in the same pay period in which they used at least three full days of paid leave. As noted above, this practice is not prohibited, but could be indicative of potential abusive overtime usage, and if appropriately analyzed may disclose opportunities to modify scheduling to reduce overtime.

Lack of Overtime Guidance

OPSB had not established sufficient policies and procedures to ensure agencies properly monitored and controlled overtime usage. When questioned on OPSB's role in overtime guidance and monitoring, DBM management advised us that each respective agency is responsible for developing its own overtime policy consistent with its needs and statutory requirements. Consequently, DBM had not required OPSB to take action to ensure that all agencies implemented an overtime policy or provide guidance to agencies as to what basic requirements should be included, such as pre-approval of overtime and a review by agency management of material and unusual overtime usage for propriety.

State law requires DBM to adopt regulations to prevent unnecessary overtime at agencies under SPMS. Also, DBM regulations establish requirements that an appointing authority or the appointing authority's designated representative may authorize an employee to work periods of time in excess of the employee's regular workweek, dependent upon workload demands, and shall assure that the authorization is in writing. As the entity responsible for administering the largest personnel system for Executive Branch agencies, and as required by State Law, we believe that DBM through OPSB would be in the best position to develop guidance and policies for SPMS agencies to better manage overtime activity.

**Recommendation 5**

**We recommend that OPSB develop and implement comprehensive procedures and policies for overtime usage in consultation with SPMS agencies and other DBM units. Specifically, we recommend that these procedures and policies include**

a. **routinely performing data analysis to identify employees with potentially excessive overtime;**
b. **requiring documented justifications from the respective agencies for employees earning excessive overtime and corrective action plans from the agencies to reduce overtime payments in the future;**
c. **ensuring that agencies establish appropriate agency-based policies for managing and monitoring overtime, and providing guidance as to the basic requirements such policies should include; and**
d. **working in conjunction with the appropriate DBM units, including those with budgetary authority, to address agencies with consistently excessive overtime (such as adding additional positions).**

## Termination with Prejudice

**Finding 6**
**OPSB did not ensure that employees terminated with prejudice were properly recorded in the State database and were not rehired by SPMS agencies.**

**Analysis**
OPSB did not ensure that employees terminated with prejudice (TWP) were properly recorded in the State database and were not rehired by SPMS agencies. TWP is reserved for the most egregious violations of performance or conduct standards, and State law prohibits TWP employees from future State service. SPMS agencies are required to record the employee as TWP in SPS. OPSB submits these TWP employees into the Pre-Offer Check (POC) database maintained by the Department of Information Technology (DoIT) which is to be checked by all State agencies prior to hiring an employee.[4] As of December 15, 2021, the POC had a total of 843 SPMS and 75 non-SPMS employees recorded since the program inception in 2012.

Our review disclosed that OPSB did not periodically reconcile SPS and POC data to ensure that all TWP employees were accurately recorded on the POC and that SPMS agencies did not hire TWP employees recorded on the POC. As a result, we noted that POC data was not complete and accurate and agencies hired employees listed on the POC.

- Our comparison of the POC database to corresponding termination data recorded in SPS between September 2017 and December 2021 disclosed that

[4] Non-SPMS agencies also need to submit TWP employees to DoIT for recordation in the POC.

11 of the 152 TWP employees on SPS were not recorded in the POC. According to OPSB management, this situation occurred because the terminating agency did not fill out all of the required termination information in SPS to trigger the process that updates the POC database. As of April 2022, OPSB could not readily determine if these 11 individuals needed to be added to the POC database without further investigation. We determined that none of the 11 individuals were rehired by another SPMS agency after their termination, but could not readily determine if they were rehired by a non-SPMS agency.

- Another comparison of the POC database as of December 2021 to State payroll records between July 2014 and November 2021 disclosed that eight TWP employees were rehired by a SPMS agency. These individuals received a total of $1.4 million in salary payments as of November 2021 after being added to the POC database.[5] The SPMS agencies that hired these individuals did not follow OPSB's guidance to check the POC database prior to hiring employees. At our request, OPSB investigated these eight individuals and found that six were deemed to be improperly included in the POC database (for example, employee was placed on POC due to a clerical error when processing the termination) while the terminating agencies could not provide documentation or an explanation for the other two TWP employees.

Periodic comparisons of the POC database to SPS termination data and State payroll records would assist OPSB to identify agencies that are not complying with State law, and instances of improper or inaccurate information being recorded in SPS or the POC.

**Recommendation 6**
**We recommend that OPSB**

a. **periodically compare the SPS termination data to POC and State payroll records to ensure that all TWP employees are properly recorded in the POC and were not rehired by a SPMS agency,**
b. **investigate and resolve the 19 identified discrepancies and inaccuracies noted in this finding, and**
c. **take steps to help ensure that agencies review the POC database prior to hiring such as providing additional direction and guidance to agencies.**

[5] As of April 2022, seven of the eight individuals were currently employed by the State.

# Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Department of Budget and Management (DBM) – Office of Personnel Services and Benefits (OPSB) for the period beginning September 8, 2017 and ending October 31, 2021. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine OPSB'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 OPSB's payment of State employees and retirees health insurance and prescription drug benefit claims, monitoring of health care and prescription drug benefit administrators, monitoring prescription drug discounts and rebates, processing of personnel and payroll transactions for certain State agencies, information system security, and cash receipts. We also determined the status of the findings contained in our preceding audit report.

Our audit also included certain support services (such as payroll) provided by OPSB to DBM's - Office of the Secretary. Conversely, our audit did not include certain support services provided to OPSB by the Office of the Secretary. These support services (such as procurements and maintenance of certain accounting records) are included within the scope of our audit of the Office of the Secretary.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of September 8, 2017 to October 31, 2021, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of OPSB's operations. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk, the timing or dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do not normally use sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us 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). These 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 the Statewide Personnel System, Pre-Offer Check database, and the Benefits Administration System for the purpose of selecting test items, such as new hires and rate changes, determining the accuracy and completeness of the POC database, and for assessing user access. We performed various tests of the relevant data and determined that 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.

OPSB'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 OPSB, 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 OPSB'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.  Finally, this report includes findings, which are identified as a "Policy Issue".  Such findings represent significant operational or financial-related issues for which formal criteria may not necessarily exist, and for which management has significant discretion in addressing, but the recommendation represents prudent and or practical actions, which we believe should be implemented by the agency to improve outcomes.  Other less significant findings were communicated to OPSB that did not warrant inclusion in this report.

The response from DBM, on behalf of OPSB, 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 DBM regarding the results of our review of its response.

## Exhibit A
## OPSB Reported Status of Findings from State Employee Performance Evaluation Program and Management Training Performance Audits as of April 15, 2022

| State Employee Performance Evaluation Program | |
|---|---|
| **Prior Recommendations** | **Status as of 4/15/2022 Based on OPSB Update** |
| 1. We recommend that OPSB<br>a. develop comprehensive strategies for addressing agency non-compliance with employee performance evaluation requirements. | Completed |
| b. amend existing PEP Guidelines to specify that all applicable Executive Branch agencies use SPS to record evaluations and track evaluation activity, as well as to institute appropriate internal follow-up to improve evaluation completion performance. | Completed |
| c. monitor SPS evaluation data to identify trends to target follow-up efforts. | Completed |
| 2. We recommend that OPSB<br>a. disclose the methodology used to prepare the APR and consider reporting evaluation data for an entire fiscal year. | Completed |
| b. obtain and report employee performance evaluation results for all Executive Branch agencies in the APR as required by law. | Completed |
| c. expand the number of agencies individually listed on the APR (for example, individually list principal agencies and other agencies with greater than 50 employees). | Completed |
| d. develop an automated capability to compile evaluation data for the preparation of the APR to eliminate the need for manual records, otherwise establish appropriate manual controls and recordkeeping to support APR data. | Completed |
| e. establish procedures to verify that agencies accurately recorded evaluations in SPS. | In Progress |

| State Employee Performance Evaluation Program | |
|---|---|
| **Prior Recommendations** | **Status as of 4/15/2022 Based on OPSB Update** |
| f. require agencies to establish controls to ensure all evaluations given were properly and accurately recorded in SPS. | In Progress |
| 3. We recommend that OPSB<br>a. establish procedures for reviewing completed evaluations and position descriptions, at least on a test basis, for sufficiency of content. | Completed |
| b. ensure that applicable agencies are notified of deficiencies and take appropriate corrective actions. | In Progress |
| c. enhance and clarify the PEP Guidelines to require the establishment of measurable performance standards in position descriptions and to require that end-of-cycle evaluations include written specific tasks to be achieved by employees during the next rating period as required by State law. | Completed |
| d. ensure consistency in its PEP Guidelines and MS-22 instructions. | Completed |
| 4. We recommend that OPSB ensure compliance with State law requiring it to provide PEP training to agency supervisors. Specifically OPSB should<br>a. clearly communicate its training expectations to state agencies, including the need to ensure all supervisors and managers are properly trained. | Completed |
| b. require State agencies to maintain detail PEP records to track PEP training provided to each supervisor and manager to substantiate the requirements of State law have been met. | Completed |
| c. monitor state agency PEP training efforts, including employee attendance/participation by requiring periodic reports on training activities. | Completed |
| 5. We recommend that OPSB<br>a. develop approaches, such as employee surveys, for evaluating the effectiveness of the PEP and the OPSB training. | Completed |
| b. reassess the appropriateness of PEP Guidelines pertaining to evaluating employee work quality for those rated satisfactory or better. | Completed |

| Management Training Report | |
|---|---|
| **Prior Recommendations** | **Status as of 4/15/2022 Based on OPSB Update** |
| 1. We recommend that DBM<br>a. establish and oversee a statewide management training program to help ensure management employees in the State Personnel Management System receive consistent and appropriate training to aid in the development of management skills. This program could be administered either centrally or by individual SPMS agencies. | Completed |
| b. consider consulting with other governments and State of Maryland agencies to help identify best practices concerning management training program content and participation. | Completed |
| c. consider addressing the aforementioned core subjects, decide whether participation should be mandatory or voluntary, offer a variety of delivery methods, and require attendance records. | Completed |
| 2. We recommend that DBM establish policies and regulations that address and define its responsibilities and the responsibilities of State agencies in connection with offering management training. | Completed |

**APPENDIX**

Maryland
DEPARTMENT OF BUDGET AND MANAGEMENT

LARRY HOGAN
*Governor*

BOYD K. RUTHERFORD
*Lieutenant Governor*

DAVID R. BRINKLEY
*Secretary*

MARC L. NICOLE
*Deputy Secretary*

January 9, 2023

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
The Warehouse at Camden Yards, Suite 400
315 West Camden Street
Baltimore, Maryland 21201

Dear Mr. Hook:

The Department of Budget and Management (DBM) has reviewed your draft audit report on the DBM – Office of Personnel Services and Benefits for the period beginning September 8, 2017 and ending November 1, 2021. As requested, attached are our responses to the findings in the report.

If you have any questions or need additional information, you may contact Marc Nicole at 410-260-7288 or Joan Peacock, Director of the Audit and Finance Compliance Unit, at 410-260-7079.

Sincerely,

David R. Brinkley
Secretary

cc: Marc Nicole, Deputy Secretary, DBM
Clifton Gray, Assistant Attorney General, DBM
Cindy Kollner, Executive Director, OPSB
Catherine Hackman, Deputy Executive Director, OPSB
Christina Kuminski, Director, Employee Benefits Division, OPSB
Sherreon Washington, Director, Contract Administration Division, OPSB
Jennifer Hines, Director, Personnel Services Division, OPSB
Joan Peacock, Director, Audit and Finance Compliance Unit, DBM

# Department of Budget and Management
# Office of Personnel Services and Benefits

**Response to Legislative Audits Findings and Recommendations - January 2023**

## Audits of Employee Benefit Programs

| |
|---|
| **Finding 1**<br>**OPSB did not attempt to recover approximately $1.2 million in liquidated damages and invalid claim payments identified during certain 2017 and 2018 audits.** |

**We recommend that OPSB**

**a. implement a formal policy on the collection of liquidated damages, including when to pursue damages and a formal approval process when declining to collect damages due the State; and**

**b. ensure that amounts due from plan participants identified in claims eligibility audits are billed in a timely manner, including the claims noted above.**

<table>
<tr><th colspan="4">Agency Response</th></tr>
<tr><td>Analysis</td><td colspan="3"></td></tr>
<tr><td></td><td colspan="3">OPSB would like to ensure that the external administrative audits and internal eligibility audits are characterized accurately by clarifying that:<br>● Administrative audits are managed through and by external contracted auditors and then presented to the combined account management team from Contract Administration Division (CAD) and the Employee Benefit Division (EBD);<br>● Eligibility audits are managed internally by the EBD; and<br>● Each is subject to various and unique timelines and procedures.<br><br>We respectfully would like to acknowledge that the Employee Benefits Division (EBD) experienced the departure of key staff during the time period referenced, which additionally contributed to delays and the timeliness related to both types of audits. Specifically,<br>● The EBD Director left employment in June 2019 and the position was vacant until the new Director was hired in October of 2019;<br>● The EBD Contract Manager left employment shortly after the departure of the Director; and<br>● A new EBD Director joined in October 2019.<br><br>Finally, we would like to recognize that in an effort to increase oversight of OPSB contracts, OPSB created the CAD in August of 2019 and has steadily increased its staffing levels.</td></tr>
<tr><td>Recommendation 1a</td><td>Agree</td><td>Estimated Completion Date:</td><td>February 2023</td></tr>
<tr><td></td><td colspan="3">OPSB attempts to collect all liquidated damages identified by our external auditors, unless the plan administrator provides sufficient evidence to support that the performance guarantee was met or if evidence is provided to support that the missed performance guarantee was due to factors beyond the control of the plan administrator. The oversight in following up on the Prescription</td></tr>
</table>

| | | | |
|---|---|---|---|
| | Drug Benefits program administrator audit of plan year 2017 was due to several reasons, including the following:<br>● Plan year 2017 was the final year of that specifical administrator's contract with the State. If the administrator's contract extended to plan year 2018, it would have been followed up (and any oversight would have been realized) as that is a requirement and included in the scope of the audit of each benefit plan administrator.<br>● Discussions were being held with the administrator in March 2020 when COVID-19 shut down State activities. This not only disrupted discussions but required resources to be focused on items that needed attention related to the pandemic situation, including delays with vendors and required contract modifications.<br>● The limited resources and turn-over in EBD, the Contract Manager and CAD further added to the oversight related to this specific administrator audit for plan year 2017.<br><br>EBD and CAD will work together in the development of a formal policy on the collection of liquidated damages, including when to pursue and the approval process when declining to collect damages due to the State. | | |
| **Recommendation 1b** | Agree | **Estimated Completion Date:** | Completed |
| | As mentioned in the analysis, the billing for amounts due from plan participants for plan year 2018 eligibility audits was suspended due to the emergency declaration in 2020. EBD collection efforts resumed the summer of 2022, and all outstanding debts are in the process of being referred to Central Collection Unit (CCU). EBD found that the referral process was entirely manual and is creating a fully automated process to expedite all collection efforts. Automation will be live by January 2023.<br><br>Going forward, EBD will ensure that amounts due from plan participants that are identified in the claims eligibility audits are billed in a timely manner. | | |

**Finding 2**
**Audits of benefit program plans and claims eligibility were not completed in a timely manner.**

**We recommend that OPSB**
- **a. ensure that all audits are completed within the required timeframe,**
- **b. complete the past due audits of plan administrators and claims eligibility noted in this finding,**
- **c. consider including in future audit contracts a provision for financial penalties or liquidated damages for failure to meet established deadlines, and**
- **d. formalize in writing the required timeframe for completing claims eligibility audits.**

# Department of Budget and Management
# Office of Personnel Services and Benefits

## Response to Legislative Audits Findings and Recommendations - January 2023

<table>
<tr><th colspan="4">Agency Response</th></tr>
<tr><td>Analysis</td><td colspan="3"></td></tr>
<tr><td></td><td colspan="3">OPSB and specifically the Contract Administration Division (CAD) in coordination with the Employee Benefits Division (EBD) were delayed due to mitigating circumstances outlined above. (See Finding 1 response.)</td></tr>
<tr><td>Recommendation 2a</td><td>Agree</td><td>Estimated Completion Date:</td><td>December 2023</td></tr>
<tr><td></td><td colspan="3">In 2022, EBD revised processes and produced formal SOPs with milestone deadlines for the claims eligibility audits to ensure these audits are completed per identified deadlines.<br><br>EBD and CAD will work together to develop a formal SOP, as needed, to ensure benefit program plan audits are conducted as required. As noted in the finding analysis, delays occurred due to several factors, including:<br>● COVID-19 and the related effects in the change in the operations of the State, the benefit program plans, and the audit vendors;<br>● the change in the audit vendors which resulted in various follow up needed with the new audit vendors to ensure the State received audits that met expectations; and<br>● turn-over and limited resources within the CAD.<br>Additionally, CAD became aware that the audit vendors were advised by a certain benefit program that audits of different plan years could not be worked on simultaneously. CAD addressed this issue as soon as they were advised by the auditors.<br><br>Going forward, we anticipate less delays and for the audit vendors to be able to complete the benefit program plan audits as required per their contract. During regular meetings with the audit vendors, CAD will discuss a plan to get audits on track and in compliance with contract deadlines.</td></tr>
<tr><td>Recommendation 2b</td><td>Agree</td><td>Estimated Completion Date:</td><td>December 2023</td></tr>
<tr><td></td><td colspan="3">The claims eligibility audits for plan years 2019 and 2020 have been completed. Plan year 2019 is currently in the collection process, and billings for plan year 2020 will begin in early January 2023. The claims eligibility audit for plan year 2021 will be completed by the end of calendar year 2022.<br><br>CAD is working with the audit vendors to facilitate completion of the benefit program plan audits for the 2019 and 2020 plan years, and to ensure audits for plan year 2021 and going forward are completed in compliance with contract deadlines.</td></tr>
<tr><td>Recommendation 2c</td><td>Agree</td><td>Estimated Completion Date:</td><td>June 2023</td></tr>
<tr><td></td><td colspan="3">A Request for proposal (RFP) is currently in development for external audit services. The development committee will include performance guarantees specific to liquidated damages and failure to meet established deadlines.</td></tr>
</table>

| **Recommendation 2d** | Agree | **Estimated Completion Date:** | Completed |
|---|---|---|---|
| | An SOP for the claims eligibility audit process was created on 3/8/2021. Since then, SOPs have been revised as processes are enhanced and streamlined. The SOP was updated 11/9/22 to include the timeframe for completing these audits. We will continue to update the SOP related to this process, as improvements and enhancements are identified. | | |

## Monitoring of State Personnel Management System Agency Payroll

**Finding 3 (Policy Issue)**
**OPSB did not have comprehensive procedures to monitor and ensure that SPMS agencies addressed all outstanding payroll discrepancies. Our review disclosed that agencies were not correcting discrepancies, which resulted in potentially improper payments going undetected.**

**We recommend that OPSB**

a. **develop comprehensive procedures to effectively ensure SPMS agencies resolve all outstanding payroll processing discrepancies timely, including the aforementioned 113 employees for whom no timesheet was submitted; and**
b. **establish and take appropriate corrective action for agencies that fail to resolve the discrepancies timely.**

| **Agency Response** | | | |
|---|---|---|---|
| **Analysis** | | | |
| | OPSB had provided agencies with comprehensive procedures to monitor and correct payroll discrepancies. OPSB currently has in place certain procedures to identify potential errors which need agency follow up. OPSB runs certain reports for irregularities and notifies agencies that corrective actions are needed. However, OPSB agrees that these procedures could be enhanced to ensure that the agencies were performing these tasks. | | |
| **Recommendation 3a** | Agree | **Estimated Completion Date:** | February 2023 |
| | OPSB has comprehensive procedures for agency time and payroll staff to follow to ensure accurate timekeeping and payroll results, but OPSB has increased efforts to ensure that agencies are aware of these procedures including instituting regular meetings with agencies. OPSB began performing periodic reviews of the *No Time Entered* report. Agencies are notified of discrepancies and advised of their responsibility to resolve those discrepancies. OPSB requires agencies to notify us when corrections have been made and, as necessary, to provide correct actions to ensure similar | | |

| | | | |
|---|---|---|---|
| | discrepancies do not continue to occur. Additionally, we will be implementing training to ensure that agencies understand and use the reporting tools available in the SPS.<br><br>OPSB has worked with agencies to resolve the payroll processing discrepancies for the 113 employees for whom no timesheet was submitted. | | |
| **Recommendation 3b** | Agree | **Estimated Completion Date:** | April 2023 |
| | Persistent failure to identify and correct such issues at the agency level will be brought to the attention of the agency head for appropriate action. These notifications will be sent out on a quarterly basis, with the first quarterly report of findings to be sent to the agency head on 4/1/23. | | |

**Finding 4**
**OPSB did not have comprehensive procedures to identify employees who were terminated or left State service, and were not removed from the payroll timely. Our review disclosed that agencies were not removing these employees timely and payments were made after those employees left State service.**

**We recommend that OPSB**

a. **develop comprehensive procedures to identify employees who were terminated or left State service and were not removed from the payroll in a timely manner;**
b. **use that data to identify any regular earnings paid after an employee left State service, and investigate and recover any amounts improperly paid, including those noted above; and**
c. **provide additional guidance to agencies that consistently fail to remove terminated employees from the payroll in a timely manner, and as a result increase the potential for invalid payroll payments.**

| **Agency Response** | |
|---|---|
| **Analysis** | |
| | The Finding block states "OPSB did not have comprehensive procedures to ensure that employees who were terminated or left State service and were not removed from the payroll timely." OPSB would have no knowledge of when an agency employee separates from State service until the agency processes the resignation in Workday. Additionally, OPSB cannot monitor or evaluate whether employees are removed from the payroll in a timely manner, until the agency processes the resignation in Workday. These matters should be caught by the agency, using processes and guidance provided by OPSB to SPMS agencies, to reconcile payroll and reviewing reports, such as the SPMS Hires and Terminations report. |

| | | | |
|---|---|---|---|
| | OLA has mentioned the memorandum of understanding between CPB and OPSB and noted that DBM certifies and is responsible for the transactions that fall under its authority, which include erroneous payroll charges. This is because DBM submits a file from SPS to CPB that is required for processing payroll. However, OSPB requires agencies to certify that they confirm, have verified and are submitting accurate payroll information for the employees of their Agency. The agency certification also confirms acknowledgement that they are responsible to resolve any inaccuracies identified or adjustments needed. DBM OPSB must rely on the State agencies to provide this certification for their agency's employees under their authority as they provide direct oversight of their agency's employees and are in the best position to make needed adjustments in SPS and/or follow up on any erroneous payroll charges. | | |
| **Recommendation 4a** | Agree | **Estimated Completion Date:** | April 2023 |
| | OPSB will issue guidance to agencies to indicate that terminations must be processed within the same pay period of the effective date and to reiterate to agencies the responsibility to address all HR transactions that are processed by SPMS agencies, specifically for transactions that have downstream impacts on payroll, benefits, etc.<br><br>In recent efforts to better ensure appropriate annual leave payouts, OPSB began running a final payout report each pay period. This report also identifies back dated terminations. As a part of the follow up related to reviewing this report, OPSB reaches out to agencies with backdated terminations to resolve errors in pay or leave. This effort provides the basis to resolve employees paid past their termination date and to manually adjust leave balances for appropriate annual leave payouts. Follow up is done to ensure collection of overpayments along with application of retirement and benefit contribution, subsidies, and applicable taxes. | | |
| **Recommendation 4b** | Agree | **Estimated Completion Date:** | April 2023 |
| | Agree with Reservation<br><br>To the extent that OPSB can aid in the investigation of improper payments, OPSB has and will continue to do so; this includes providing reports, training, and guidance to agencies. However, the employing agency is the agency that is required to investigate and recover overpayments or refer such matters, as appropriate, for collections.<br><br>OPSB will contact and work with the applicable agencies to investigate and recover any amounts properly paid related to the 7 payments totaling $35,200 noted in the Analysis. | | |

| Recommendation 4c | Agree | Estimated Completion Date: | June 2023 |
|---|---|---|---|
| | OPSB will continue to address this issue in all SPMS agency training as applicable; and will notify the agency HR Director and Agency Head of improper payments due to late terminations and recommend appropriate remedial or administrative action for persistent overpayment issues. Agency HR has been receiving notices; however, the first notices to the Agency Head will be sent June 2023. | | |

## Monitoring of Excessive Overtime

**Finding 5 (Policy Issue)**
**OPSB did not have a comprehensive process in place to formally monitor or periodically evaluate SPMS agency overtime, and did not have guidance for agencies to manage overtime usage, and justify or prepare a plan to address actions to minimize or limit excessive overtime levels. We identified high overtime levels at several agencies, including 549 employees whose overtime earnings consistently exceeded their regular base salary.**

**We recommend that OPSB develop and implement comprehensive procedures and policies for overtime usage in consultation with SPMS agencies and other DBM units. Specifically, we recommend that these procedures and policies include**

**a. routinely performing data analysis to identify employees with potentially excessive overtime;**
**b. requiring documented justifications from the respective agencies for employees earning excessive overtime and corrective action plans from the agencies to reduce overtime payments in the future;**
**c. ensuring that agencies establish appropriate agency-based policies for managing and monitoring overtime, and providing guidance as to the basic requirements such policies should include; and**
**d. working in conjunction with the appropriate DBM units, including those with budgetary authority, to address agencies with consistently excessive overtime (such as adding additional positions).**

| Agency Response | | | |
|---|---|---|---|
| **Analysis** | | | |
| | | | |
| **Recommendation 5a** | Agree | **Estimated Completion Date:** | April 2023 |

| | | | |
|---|---|---|---|
| | "Excessive Overtime" will be difficult to define across agencies that may have very different staffing requirements and limitation, but we will work with agencies to define this and develop a process, in consultation with their Budget and HR staff, that the agencies may use to perform data analysis to identify employees with potentially excessive overtime. While OPSB can develop a process and provide guidance and various reports, agencies are in the best position to perform the analysis to identify excessive overtime. | | |
| **Recommendation 5b** | Agree | **Estimated Completion Date:** | April 2023 |
| | As part of our work with the agencies to assist in the development of agency-specific overtime review processes, OPSB will ensure that the process includes documented justifications for employees who earn high amounts of overtime and will ask agencies to submit their corrective action plans for review by OPSB. | | |
| **Recommendation 5c** | Agree | **Estimated Completion Date:** | April 2023 |
| | DBM will develop a standard policy for managing and monitoring overtime, which will include basic requirements and from which agencies can establish an agency specific policy. DBM will request agencies establish their own, agency specific policy. | | |
| **Recommendation 5d** | Agree | **Estimated Completion Date:** | June 2023 |
| | OPSB will work with DBM's Office of Budget Analysis to address agencies with consistently high overtime by taking actions, such as: reviewing minimum qualifications for positions, assisting with recruitment efforts, and/or considering whether additional positions are warranted to address persistent overtime issues. | | |

## Termination with Prejudice

**Finding 6**
**OPSB did not ensure that employees terminated with prejudice were properly recorded in the State database and were not rehired by SPMS agencies.**

**We recommend that OPSB**

a. **periodically compare the SPS termination data to POC and State payroll records to ensure that all TWP employees are properly recorded in the POC and were not rehired by a SPMS agency,**
b. **investigate and resolve the 19 identified discrepancies and inaccuracies noted in this finding, and**
c. **take steps to help ensure that agencies review the POC database prior to hiring such as providing additional direction and guidance to agencies.**

# Department of Budget and Management
## Office of Personnel Services and Benefits

**Response to Legislative Audits Findings and Recommendations - January 2023**

| Agency Response | | | |
|---|---|---|---|
| **Analysis** | | | |
| | | | |
| **Recommendation 6a** | Agree | **Estimated Completion Date:** | January 2023 |
| | On at least a quarterly basis, OPSB will compare hiring and termination with prejudice data in the Statewide Personnel System (SPS) to information contained in the POC to ensure agencies are not rehiring individuals who have been terminated with prejudice as well as to ensure all TWP employees are properly recorded in the POC. Yearly, OPSB will send reminders to SPMS agencies on the proper processing of termination with prejudice actions. We are also developing training to enhance guidance and agency knowledge on the processes related to this issue which will be incorporated into future training schedules. | | |
| **Recommendation 6b** | Agree | **Estimated Completion Date:** | Completed |
| | For all SPMS agencies with discrepancies or inaccuracies identified in this finding, OPSB will investigate and resolve the issues. Additionally, OPSB will make recommendations for resolving discrepancies or inaccuracies pertaining to former employees to non-SPMS agencies. | | |
| **Recommendation 6c** | Agree | **Estimated Completion Date:** | Completed |
| | OPSB has addressed this finding by communicating to both SPMS and non-SPMS agencies the obligation to ensure employees who have been terminated with prejudice are included in the POC and to review the POC prior to hiring. We will send similar reminders to SPMS agencies on a yearly basis. | | |

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