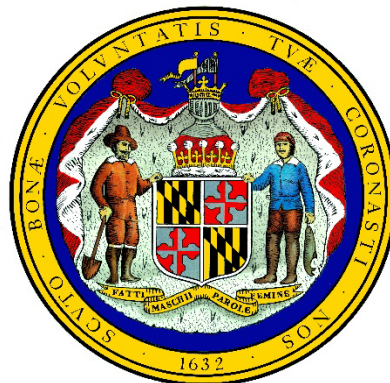


Special Review

**Review of State Units Exempt from State Procurement
Laws and Regulations**

November 2025



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES

OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

November 20, 2025

Senator Shelly L. Hettleman, 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 special review of units of State government that are exempt from State procurement laws. This review was initiated because of concerns identified during recent audits of State agencies with exemptions from State procurement law, as well as concerns expressed by members of the General Assembly. State procurement law contains various provisions that exempt specified units, either in full or in part, from adherence to certain requirements including regulated procurement methods, public notice of solicitations and awards and purchasing preferences. These units are not precluded from following certain State procurement laws and regulations intended to promote the purposes of State procurement law such as the use of competitive procurements.

The purpose of our review was to (1) identify the units of State government that are exempt from State procurement law; (2) determine whether exempt units' written policies addressed the minimum areas required by State law and were approved by the appropriate oversight entity; and 3) determine whether exempt units' procurement policies were consistent with State procurement laws and regulations. We conducted our review during the period from December 2, 2024 through September 2, 2025 and the results herein are based on information obtained during this period.

Our review noted that 42 units of State government have an exemption from State procurement law dating back to calendar year 1983. These units consist of 29 units that are fully exempt and 13 that were exempt for select procurements. Our review disclosed that 38 of the 42 units have developed written procurement policies as required.

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Our closer review of 9 of the 38 units with an established policy disclosed inconsistencies in whether minimum requirements were addressed, if the policy had been approved, and what was addressed in the procurement policy. For example, 7 of the 9 units reviewed did not require procurement awards to be published. The remaining 2 units did not include any timeframe for the publication of contract awards and did not require the award of all procurement types to be published.

The results of this review will be considered in subsequent audits conducted by our office of the units of State government referenced in this report. While this report does not include formal recommendations, we have included a list of Statewide improvements to facilitate monitoring exempt procurements for the Committee's consideration.

Respectfully submitted,

Brian S. Tanen

Brian S. Tanen, CPA, CFE
Legislative Auditor

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Background Information

Maryland Procurement Law

Division II of the State Finance and Procurement Article of the Annotated Code of Maryland establishes the organization of State procurement, the available procurement methods (such as competitive bidding), and other rules and procedures that must be followed throughout the procurement process by units of State government. The stated purpose of State procurement law is to provide increased confidence in State procurement; ensure the fair and equitable treatment of all persons who deal with the State procurement system; provide a procurement system of quality and integrity; foster effective broad-based competition in the State through support of the free enterprise system; and promote development of uniform State procurement procedures to the extent possible.

The Board of Public Works (BPW) is responsible for controlling procurement by various State units through the direct review and approval of most State contracts exceeding \$200,000 and by promulgating State regulations. Since 1983, the General Assembly has enacted various legislation granting units partial or full exemption from Division II for certain policy reasons or because these units performed specialized functions. State law does not contain a single, comprehensive list of these exemptions; rather, these exemptions are codified within Division II or in the respective unit's enabling statute (see **Objective 1**).

Generally, an exemption excludes the procurement from BPW review and from standard State procurement procedures such as regulated procurement methods, public notice of solicitation and awards, and purchasing from Maryland Correctional Enterprises, Blind Industries, and Employment Works providers. It should be noted that certain provisions of State law still apply to exempted units, such as prohibitions on collusion and the use of suspended and debarred contractors.

Scope, Objectives, and Methodology

Scope

We conducted a review of State agencies and other governmental units (units) granted an exemption from the requirements of State procurement laws and regulations. This review was initiated because of concerns identified during recent audits of State agencies with exemptions from State procurement law (as further described below), as well as concerns expressed by members of the General Assembly.

Our current review was conducted during the period from December 2, 2024 through September 2, 2025 and the results herein reflect information we were able to obtain during this period. This review was conducted under the authority of the State Government Article, Section 2-1220 of the Annotated Code of Maryland.

Our review was limited to the procedures necessary to accomplish the objectives. These procedures did not constitute an audit conducted in accordance with generally accepted government auditing standards (GAGAS). Had we conducted an audit in accordance with GAGAS, those standards would require the issuance of recommendations as part of our reporting process. In addition, other matters may have come to our attention that would have been reported.

Objectives and Methodology

Our review included the following three objectives:

1. Identify units exempt from State procurement law and the nature of the exemption.
2. Determine whether the exempt units' written policies addressed the minimum areas required by State law and were approved by the appropriate oversight entity.
3. Determine whether exempt units' procurement policies were consistent with State procurement laws and regulations.

Our review consisted of analyzing State law and the procurement policies for certain units of State government granted procurement exemptions (based on our assessment of risk and materiality). The review was focused on ascertaining if the procurement policies were established as required and, on a limited basis, whether the policies complied with State law. Our interaction with these units was limited

to obtaining the respective policies. We did not attempt to determine why policies were not established or did not adhere to State law.

In addition, because exempt units are not precluded from following State procurement laws and regulations intended to promote the aforementioned purposes of State procurement law, on a limited basis, we also evaluated whether exempt units' policies were consistent with significant areas of State procurement laws and regulations applicable to non-exempt units of State government. As needed, we contacted the units to obtain their written policies and procedures and other documentation or information necessary for our review.

Objective 1

Identify units exempt from State procurement laws and the nature of the exemption.

Objective and Methodology

Our objective was to identify the units that have an exemption from State procurement law and the nature of the exemption. There is no single source listing units with procurement exemptions. In addition, State accounting records are not set up to readily identify procurements processed under an exemption. Accordingly, we reviewed the Annotated Code of Maryland to identify units that were exempt from some or all of the State procurement laws included in Division II of the State Finance and Procurement Article of the Annotated Code of Maryland (Division II).

Our review focused on Executive Branch State agencies, State universities, and other governmental units. To complete this objective, we reviewed the exemptions provided to units under Division II and other areas of State law referenced in Division II. We also reviewed other articles of the Annotated Code of Maryland to identify units whose exemptions were granted by the unit's enabling statute (rather than the State Finance and Procurement Article).

Conclusion

Our review identified 42 units as having an exemption from State Procurement Law, dating back to calendar year 1983, including 29 units that were exempt from State Procurement Laws for all procurements and 13 that were exempt for select procurements as further described in Figures 1 and 2.

Figure 1
Units Exempt from State Procurement Law

No.	Unit	Year Est.	Current Exempting Statute
Units Exempt from State Procurement Laws for All procurements			
1	Accountability and Implementation Board (AIB)	2021	ED, § 5-402
2	Canal Place Preservation and Development Authority (CPPDA)	1993	FI, §13-1027
3	Maryland African American Museum Corporation (MAAMC)	1998	SG, § 9-2612
4	Maryland Automobile Insurance Fund (MAIF) ¹	2013	IN, § 20-201
5	Maryland Corps Program (MCP) ²	2022	SFP, § 11-203
6	Maryland Economic Development Corporation (MEDCO)	1984	EC, § 10-111
7	Maryland Environmental Service (MES)	1993	NR, § 3-103
8	Maryland Food Center Authority (MFCA)	1983	SFP, § 11-203
9	Maryland Health Benefit Exchange (MHBE)	2011	IN, § 31-103
10	Maryland Rural Council (MRC) ²	1995	SFP, § 11-203
11	Maryland Stadium Authority (MSA)	1987	SFP, § 11-203
12	Maryland Technology Development Corporation (MTDC)	1998	EC, § 10-407
13	Maryland Thoroughbred Racetrack Operating Authority (MTROA) ³	2023	SFP, § 11-203
14	West North Avenue Development Authority (WNADA)	2023	SFP, § 11-203
15	University System of Maryland (USM)	1999	SFP, § 11-203
16-27	University System of Maryland (12 Institutions)	1999	SFP, § 11-203
28	Morgan State University (MSU)	2004	ED, § 14-109
		2004	SFP, § 11-203
29	St. Mary's College (SMC)	2006	SFP, § 11-203
		2007	ED, § 14-405
Units Exempt from Certain State Procurement Laws from Certain Procurements			
1	Developmental Disabilities Administration (DDA)	2003	SFP, § 11-203
2	Department of General Services (DGS)	2009	SFP, § 11-203
3	Department of Natural Resources (DNR)	2010	SFP, § 11-203
4	Department of Commerce (DOC)	1993	SFP, § 11-203
5	Maryland State Arts Council (MSAC) ²	1984	SFP, § 11-203
6	Maryland Energy Administration (MEA)	2003	SFP, § 11-203
7	Maryland Historical Trust (MHT) ²	1986	SFP, § 11-203
8	Maryland Public Broadcasting Commission (MPBC)	1986	SFP, § 11-203
9	Maryland Supplemental Retirement Plans (MSRP)	2019	SPP, § 35-302
10	Prescription Drug Affordability Board (PDAB)	2019	HG, § 21-2c-03

¹ MAIF was subject to audit by our office until October 1, 2013 in accordance with Chapter 73, 2013 Laws of Maryland.

² These units are subject to audit by our office either individually or as part of another regularly scheduled audit. In this regard, the MCP, MRC, MSAC, and MHT are subject to audit as part of the Department of Service and Civic Innovation, Department of Agriculture, Department of Commerce, and Department of Planning audits, respectively, conducted by our office.

³ MTROA was dissolved effective June 30, 2025, in accordance with the 2025 Maryland Budget Reconciliation and Financing Act which designated MEDCO and MSA as its successors.

No.	Unit	Year Est.	Current Exempting Statute
11	Maryland State Archives (SA)	2017	SFP, § 11-203
12	Maryland State Lottery and Gaming Control Agency (SLGCA)	1997	SFP, § 11-203
13	State Retirement and Pension System (SRPS)	1986	SFP, § 11-203

EC: Economic Development Article

ED: Education Article

FI: Financial Institutions Article

HG: Health General Article

IN: Insurance Article

NR: Natural Resources Article

SG: State Government Article

SPP: State Personnel and Pensions Article

As noted above, 13 entities are only exempt from Division II for specific types of procurements as described in Figure 2.

Figure 2
Units with Specified Procurements Exempt from Division II

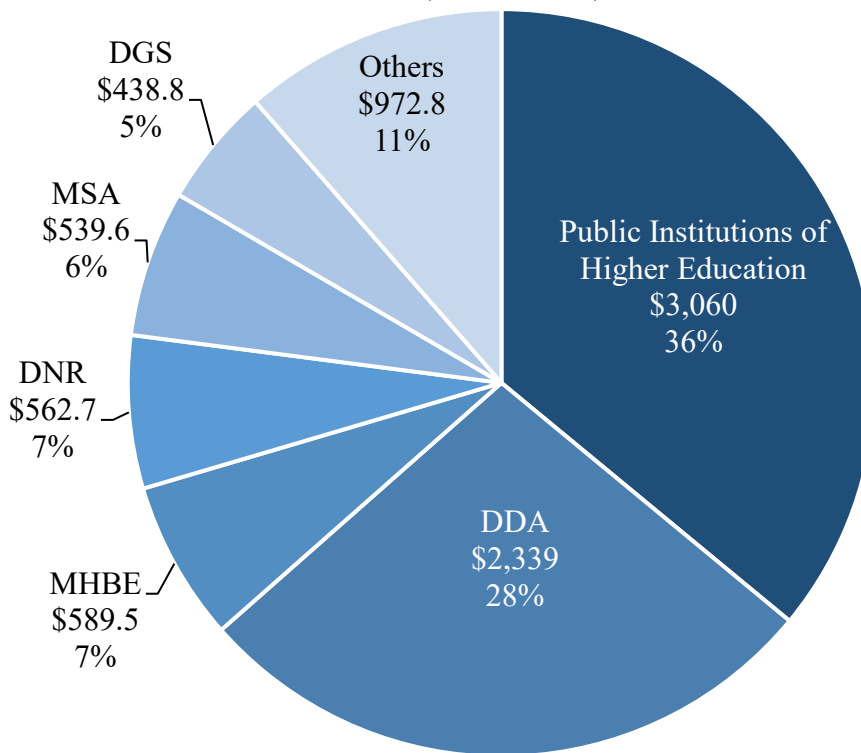
No.	Unit	Types of Procurements Exempt
1	DDA	For family and individual support services, and individual family care services, as those terms are defined by the Maryland Department of Health in regulation.
2	DGS	For the rehabilitation of a structure listed or eligible for listing in the National Register of Historic Places, to the extent the procurement is necessary to preserve the historic fabric of the structure impacted by the rehabilitation.
3	DNR	For grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities and for pay-for-success contracts as defined in State law.
4	DOC	For private section cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50 percent of the total cost of the project.
		For training services or programs related to the Maryland Industrial Training Program and the Partnership for Workforce Quality Program.
5	MSAC	For the support of the arts.
6	MEA	For grants and cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State.
7	MHT	For surveying and evaluating architecturally, archeologically, historically, or culturally significant properties, and for preparing historic preservation planning documents and educational material.
8	MPBC	For services of artists for educational and cultural television productions or when planning for or fulfilling the obligations of grants or cooperative agreements that support the educational and cultural activities of the Commission.
9	MSRP	For services and expenditures related to the administration and maintenance of the Supplemental Retirement Plans.
10	PDAB	For services to be performed or supplies to be delivered to the Board.

No.	Unit	Types of Procurements Exempt
11	SA	For the preservation, conservation, care, restoration, and transportation of fine or decorative art in the custody of the Commission of Artistic Property and owned by or loaned to the State.
12	SLGCA	For private sector cooperative marketing projects under specific conditions.
13	SRPS	For services and expenditures related to the administration and maintenance of the State Retirement and Pension System.

Source: Maryland Annotated Code

According to State accounting records, fiscal year 2024 non-payroll operating expenditures for these 42 units totaled \$8.5 billion. We could not readily determine the number and dollar amount of each unit's exempt procurements or the extent that expenditures related to an exempt procurement. For example, the expenditures reflected in Figure 3 for DDA include all non-payroll operating expenditures rather than the DDA services that are specifically exempt from State procurement regulations.

Figure 3
Fiscal Year 2024 Non-Payroll Operating Expenditures
For Agencies Exempt from Procurement Law
(\$ in millions)



Source: State accounting records

Recent audits performed by our office for MAAMC, MFCA, University of Maryland Global Campus (UMGC), Frostburg State University (FSU), MSU, DNR, and MPBC identified findings related to the units' procurements, including procurements exempt from Division II.

- MAAMC did not always comply with its written procurement policy regarding obtaining written proposals and obtaining management approvals.
- MFCA's current procurement policies and procedures were not approved by its Board of Directors as required by State law, and did not require Board approval of significant procurements to enhance oversight and control.
- UMGC's activities raise questions as to whether its continued relationship with Ventures and its affiliates is in the best interest of UMGC. In this regard, UMGC obtained services from Ventures and its affiliates totaling approximately \$184.1 million without competitive procurement or verifying the amounts paid were proper. In addition, UMGC did not adequately justify two sole source procurements of advertising services and did not consolidate the procurements which we believe circumvented *USM Procurement Policies and Procedures*.
- FSU did not exercise adequate due diligence or comply with certain procurement policies when it procured a new financial aid system. In addition, FSU did not competitively procure student mental health services initially obtained without competition in October 2019 through an emergency procurement, and then extended multiple years using questionable sole source justifications and without obtaining required approvals. FSU also did not verify that its use of contracts procured by other entities was in the best interest of FSU as required by Board of Regents procurement policies and procedures.
- MSU did not procure certain goods and services in accordance with its policies and procedures.
- DNR did not always comply with State procurement regulations including documenting bid openings, retaining proposals, executing contracts, and publishing contract awards on *eMaryland Marketplace (eMM)*.
- MPBC continued to use the services of a vendor for several years after the related contract had expired. In addition, MPBC did not always comply

with State procurement regulations for its non-exempt procurements and intergovernmental cooperative purchasing agreements including documenting bid openings and publishing contract awards on *eMMA*.

Objective 2

Determine whether exempt units’ written policies addressed the minimum areas required by State law and were approved by the appropriate oversight entity.

Objective and Methodology

Our objective was to first determine if all 42 exempt units had written policies as required. We then determined if the policies maintained by certain units addressed the minimum areas required by State law and were approved by the appropriate oversight entity. Specifically, we judgmentally selected the following 9 units based primarily on the materiality of their operating expenditures.

- | | | |
|---------|----------|----------|
| 1. MHBE | 4. MEDCO | 7. MFCA |
| 2. MSA | 5. MES | 8. MAAMC |
| 3. DGS | 6. MPBC | 9. USM |

Section 12-401 of the State Finance and Procurement Article of the Annotated Code of Maryland requires each exempt unit (excluding colleges and universities) to establish policies that address the following areas: (1) the procurement method to be used; (2) the advertising requirements; (3) procurement goals, including minority business enterprise participation; and (4) the approval process for each type of procurement exempted.

Although USM and its institutions are not required to comply with Section 12-401, the Education Article requires colleges and universities to establish policies and procedures that promote the purposes of Division II of the State Finance and Procurement Article. The Article also requires colleges and universities to submit these policies to the Board of Public Works (BPW) but does not identify specific areas that must be addressed. Therefore, for the purpose of our review, we included USM to assess whether its policy addressed the areas identified in Section 12-401.

Conclusion

Our review disclosed that 4 of the 42 exempt units did not have written policies as required by State law. Specifically, the State Lottery and Gaming Control Agency, the Maryland Corps Program, the Maryland State Archives, and the

Maryland Energy Administration did not have a written procurement policy as of March 2025.

In addition, for the 9 units selected for further review we determined that 2 units did not include some of the required elements in their policy and another did not have its policy approved as required. Specifically, as of March 2025, MFCA's procurement policy did not include advertising requirements⁴, MAAMC's procurement policy did not include advertising requirements or procurement goals including minority business enterprise (MBE) goals, and MES's procurement policy (dated October 2021) had not been approved by its Board of Directors. We did not attempt to determine why MFCA and MAAMC's policies did not address advertising requirements and/or procurement goals.

Objective 3

Determine whether exempt units' procurement policies were consistent with State procurement laws and regulations.

Objective and Methodology

Our objective was to determine whether exempt units' procurement policies were consistent with State procurement laws and regulations governing non-exempt units. These statewide laws and regulations provide comprehensive controls to ensure the integrity and transparency of the procurement process. While exempt units do not have to follow these statewide requirements, to the extent possible, their policies should incorporate key areas of these requirements to enhance the integrity and transparency of their procurements. To that end, for the units selected in Objective 2, we reviewed whether the policies addressed the following critical areas and if the policy was consistent with State laws and regulations applicable to non-exempt units:

1. Competitive procurements
 - A. Does the policy address the use of competitive procurements?
 - B. Does the policy address the use of written solicitations?
 - C. Does the policy address the opening and security of bids and proposals?
 - D. Does the policy address the basis for award?
 - E. Does the policy address approval requirements?
2. Sole source procurements
 - A. Does the policy address the use of sole source procurements?

⁴ Subsequent to our recommendation resulting from the above noted audit report, MFCA obtained Board approval for its procurement policy.

- B. Does the policy require written sole source justifications?
 - C. Does the policy require the unit to negotiate sole source procurements?
 - D. Does the policy address approval requirements?
3. Intergovernmental cooperative purchasing agreements (ICPA)
 - A. Does the policy address the use of ICPA procurements?
 - B. Does the policy require the unit to document the justification for use of the ICPA procurement method, consistent with the requirements of State law?
 - C. Does the policy address approval requirements for ICPA procurements?
 4. Public notice of solicitation and award
 - A. Does the policy require the public solicitation of contracts?
 - B. Does the policy require the publication of contract awards?
 5. Use of minority business enterprises (MBE)
 - A. Does the policy address MBE participation goals?
 - B. Does the policy require an appropriate MBE participation goal to be set for each procurement?

For the units whose policies addressed these areas, we assessed whether the policies deviated from the criteria in State law and regulations applicable to non-exempt units. Our analysis was limited to the review of these units' policies, and did not include discussion with the units' management or testing of exempt procurements to assess the actual application of the policies.

Conclusion

Policy Area 1 Competitive Procurement					
Unit	State Procurement Requirements for Competitive Procurements				
	A	B	C	D	E
MHBE	Yes	Yes	Not Consistent	Yes	Yes
MSA	Yes	Yes	Yes	Yes	Yes
DGS	Not Consistent	Yes	Not Addressed	Yes	Yes
MEDCO	Not Consistent	Not Consistent	Not Addressed	Not Consistent	Not Consistent
MES	Yes	Yes	Yes	Yes	Yes
MPBC	Yes	Not Consistent	Not Addressed	Not Consistent	Not Consistent
MFCA	Yes	Not Consistent	Not Addressed	Yes	Not Consistent
MAAMC	Yes	Not Consistent	Not Addressed	Not Addressed	Yes
USM	Yes	Not Consistent	Yes	Yes	Not Consistent
Not Addressed:	0	0	5	1	0
Not Consistent:	2	5	1	2	4

A. Does the policy address the use of competitive procurements?

Our review disclosed that all units' policies addressed the use of competitive procurements. However, two units' policies were not consistent with State procurement regulations. Specifically, the DGS policy stated direct solicitation would be used in its procurements but did not specify the number of vendors to be solicited. Similarly, the MEDCO policy did not state a preference for competition for all procurements such as services or supplies procured.

B. Does the policy address the use of written solicitations?

Our review disclosed that five units' policies were not consistent with State procurement regulations because they did not require written solicitations for all competitive procurements over \$50,000. For example, USM's procurement policy required written solicitations for procurements above \$200,000 (four times the amount for non-exempt units).

C. Does the policy address the opening and security of bids and proposals?

Our review disclosed that five units' policies did not address bid or proposal opening and security. In addition, MHBE's policy addressed the opening and security of competitive sealed bids but did not include similar requirements for competitive sealed proposals. State requirements generally require competitive sealed bids to remain sealed until opened publicly and competitive sealed proposals shall not be opened publicly. For competitive bids and proposals, the offeror's name may not be disclosed publicly.

D. Does the policy address the basis for award?

Our review disclosed that MAAMC's policy did not address the basis for award for competitive procurements. In addition, MEDCO's and MPBC's policies addressed the award of competitive procurements but did not specify that the contract should be awarded to the lowest bidder or most advantageous to the State. For example, MPBC's policy provides that its evaluation committee recommends the vendor for contract award but does not indicate the criteria to be considered in this recommendation. State requirements provide that contracts should be awarded to the responsible offeror with the bid or proposal that was determined to be the lowest price or the most advantageous to the State.

E. Does the policy address approval requirements for competitive procurements?

Our review disclosed the dollar threshold established by four units’ policies significantly exceeded the amount specified in State procurement regulations, which generally require approval from BPW for procurements above \$200,000. For example, MPBC’s policy only required its Commission’s approval for contracts of \$1 million or more.

Policy Area 2				
Sole Source Procurement				
Unit	State Procurement Requirements for Sole Source Procurements			
	A	B	C	D
MHBE	Yes	Yes	Yes	Yes
MSA	Yes	Yes	Not Addressed	Yes
DGS	Not Addressed	Not Addressed	Not Addressed	Not Addressed
MEDCO	Not Addressed	Not Addressed	Not Addressed	Not Consistent
MES	Yes	Yes	Yes	Not Consistent
MPBC	Yes	Yes	Not Addressed	Not Consistent
MFCA	Yes	Yes	Not Addressed	Not Consistent
MAAMC	Yes	Not Addressed	Not Addressed	Yes
USM	Yes	Yes	Yes	Not Consistent
Not Addressed:	2	3	6	1
Not Consistent:	0	0	0	5

A. Does the policy address the use of sole source procurements?

Our review disclosed that two units’ policies did not address the use of sole source procurements.

B. Does the policy require written sole source justifications?

Our review disclosed that three units’ policies did not require a written justification for sole source procurements. State requirements require a written determination that there is only one available source for the subject of the procurement.

C. Does the policy require the unit to negotiate sole source procurements?

Our review disclosed that six units’ policies did not require the unit to negotiate the price and other terms of sole source procurements. State regulations generally require the procurement officer to negotiate price and other terms, as appropriate.

D. Does the policy address approval requirements for sole source procurements?

Our review disclosed that one unit’s policy did not address sole source procurement approvals. In addition, the threshold in the policy for five other units exceeded the amount established in State procurement regulations (\$100,000) or did not require approval of its oversight entity. For example, under MFCA’s policy, only procurements exceeding \$500,000 require approval by its Board.

Policy Area 3			
Intergovernmental Cooperative Purchasing Agreements (ICPA)			
Unit	State Procurement Requirement for ICPAs		
	A	B	C
MHBE	Yes	Not Addressed	Yes
MSA	Not Addressed	Not Addressed	Not Addressed
DGS	Not Addressed	Not Addressed	Not Addressed
MEDCO	Not Addressed	Not Addressed	Not Addressed
MES	Yes	Not Addressed	Yes
MPBC	Not Addressed	Not Addressed	Not Addressed
MFCA	Yes	Yes	Not Consistent
MAAMC	Not Addressed	Not Addressed	Not Addressed
USM	Yes	Not Addressed	Not Consistent
Not Addressed:	5	8	5
Not Consistent:	0	0	2

A. Does the policy address the use of ICPA procurements?

Our review disclosed that five units’ policies did not address ICPA procurements.

B. Does the policy require the unit to document the justification for use of the ICPA procurement method, consistent with the requirements of State law?

Our review disclosed that eight units’ policies do not require the unit to document justification for the use of an ICPA. State law requires units that use the ICPA

procurement method to make a determination in writing that includes sufficient evidence the ICPA will provide cost benefits or promote administrative efficiencies. The unit must also include a statement the ICPA is in the best interest of the State and not intended to evade the purposes of Division II of the State Finance and Procurement Article.

C. Does the policy address approval requirements for ICPA procurements?

As noted above, five units’ policies do not address ICPA procurements. Our review disclosed that two units’ policies established procurement approvals; however, the dollar threshold for approval was not consistent with State procurement requirements. For example, only MFCA procurements of \$500,000 or more require the approval of its Board of Directors. For non-exempt units, ICPA procurements above \$200,000 generally require the approval of BPW.

Policy Area 4		
Public Notice of Solicitation and Award		
Unit	State Procurement Requirement for Publication	
	A	B
MHBE	Yes	Not Addressed
MSA	Not Consistent	Not Addressed
DGS	Not Consistent	Not Addressed
MEDCO	Not Consistent	Not Addressed
MES	Not Consistent	Not Consistent
MPBC	Not Consistent	Not Addressed
MFCA	Not Addressed	Not Addressed
MAAMC	Not Addressed	Not Addressed
USM	Not Consistent	Not Consistent
Not Addressed:	2	7
Not Consistent:	6	2

A. Does the policy require the public solicitation of contracts?

Our review disclosed that two unit’s policies do not address the public solicitation of competitive procurements. In addition, five units’ policies either did not specify a minimum timeframe for advertisement or, in the case of MES, only required the advertisement for 10 days. We also noted three units’ policies either did not require public solicitation, did not require it for all competitive procurements, or did not require it for competitive procurements under a certain amount. For example, USM did not require public solicitation of competitive

procurements under \$200,000. State regulations require advertisement for a minimum of 20 days for all procurements expected to exceed \$50,000.

B. Does the policy require the publication of contract awards?

Our review disclosed that seven units’ policies do not address the publication of contract awards. In addition, although USM and MES’s policies required the publication of awards, the policies did not establish a timeframe and did not require all procurements to be published. For example, MES’s policy did not address the publication of awards using the competitive sealed proposal procurement method. State procurement regulations require the publication of awards within 30 days of when the contract was awarded.

Policy Area 5		
Minority Business Enterprise (MBE)		
Unit	State Procurement Requirements for MBE	
	A	B
MHBE	Not Consistent	Not Addressed
MSA	Yes	Yes
DGS	Not Consistent	Yes
MEDCO	Not Consistent	Not Addressed
MES	Yes	Yes
MPBC	Not Consistent	Not Addressed
MFCA	Yes	Yes
MAAMC	Not Addressed	Not Addressed
USM	Yes	Yes
Not Addressed:	1	4
Not Consistent:	4	0

A. Does the policy address MBE participation goals?

Our review disclosed that MAAMC’s policies did not address MBE participation goals. In addition, while MHBE, DGS, MEDCO, and MPBC’s policies included MBE as a procurement goal, achievement of an overall procurement goal was not acknowledged.

B. Does the policy require an appropriate minority business enterprise participation goal to be set for each procurement?

Our review disclosed that four unit’s policies did not require the unit to evaluate each procurement for MBE participation goals.

Considerations for Improvement

Based on the above conclusions, the following improvements could be made to address the deficiencies identified.

- Consider assigning one agency/entity (such as the Board of Public Works) authority and responsibility for ensuring exempt agencies/procurements are governed by sufficient policies and procedures and to periodically reevaluate the need for the exemptions.
- Consider consolidating the exempt agencies/procurements in one statute to enable more effective monitoring of the exemptions.
- Consider a review of existing exemptions to determine whether they are necessary or can be better restricted or defined.
- Consider mandating certain requirements for exempt procurements, such as publication of solicitation and awards, approvals for transactions over a certain dollar amount, and inclusion of standard contract language such as liquidated damages.
- Consider statute prohibiting exempt agencies from using the exemption to procure goods and services on behalf of non-exempt agencies.
- Consider qualifying the exemptions to indicate that they are to follow State procurement laws and regulations unless there is a documented reason not to for the specific procurement. For example, University System of Maryland institutions could comply with State procurement regulations for purchases of computers but may be exempt when procuring education related goods and services.
- Consider establishing a mechanism to quantify and report exempt procurement activity.