

Special Review

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**Department of Transportation  
Maryland Transit Administration  
Interagency Agreements with Towson University**

Interagency Agreements with Towson University's Division of Economic and  
Community Outreach Enabled MTA to Circumvent State Procurement  
Regulations

Lack of Proper Controls Precluded Effective Monitoring of Services and Billings

MTA Did Not Adequately Follow Up on Certain Questionable Activities

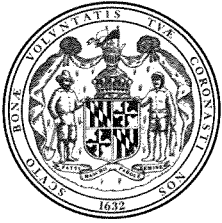
February 2015

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**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

Karl S. Aro  
Executive Director

Thomas J. Barnickel III, CPA  
Legislative Auditor

February 3, 2015

Senator Guy J. Guzzone, Co-Chair, Joint Audit Committee  
Delegate Craig J. Zucker, Co-Chair, Joint Audit Committee  
Members of Joint Audit Committee  
Annapolis, Maryland

Ladies and Gentlemen:

We conducted a review of an allegation received through our fraud, waste, and abuse hotline related to certain interagency agreements between the Maryland Transit Administration (MTA) and Towson University's Division of Economic and Community Outreach (DECO). Our review included 10 agreements and payments associated with 8 agreements totaling \$10.6 million.

MTA circumvented State procurement regulations that require competitive bidding and allowed MTA to augment its staff beyond its budgetary positions through its use of these agreements. For example, under an annual employment services agreement with DECO, MTA identified the individuals who were to be employed by DECO to perform work directly for MTA. MTA was responsible for monitoring the work performed by these individuals without any apparent involvement by DECO. During fiscal years 2010 through 2013, DECO was paid \$6.3 million and the number of personnel for MTA included under the agreement ranged from 11 individuals in 2010 to 57 individuals in 2013. The individuals hired included several individuals who had previously been employed by MTA or its contractors and who performed duties under the agreement that were similar to those performed when they were employed by or for MTA. MTA also had poor procedures and controls for the administration of the agreements, did not maintain adequate records of the agreements and related task orders, paid invoices without adequate support, and could not document that certain deliverables were received.

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

employee's spouse. Prior to our review, MTA became aware of certain questionable activities pertaining to this employee and performed certain limited procedures to confirm these activities; this resulted in MTA terminating the employee and referring the matter to the State Ethics Commission. However, MTA did not expand its procedures to include a review of all agreements with DECO executed by this employee and the related payments. Furthermore, the aforementioned questionable activity was not referred to the Criminal Division of the Office of Attorney General until we notified the Maryland Department of Transportation – Office of the Secretary management of our preliminary findings.

Our review of the agreements procured by this employee disclosed numerous deficiencies in the structure of the agreements and related payments. For example, the aforementioned employment services agreement specified that MTA would make quarterly payments at the beginning of each quarter based upon the listing of the individuals who were supposed to work during each quarter and the related salaries in the annual agreement. (For example, the July 2011 quarterly billing totaled approximately \$503,000 for services to be provided by 33 individuals.) MTA paid certain quarterly billings without subsequently verifying the individuals had actually worked the entire quarter.

MTA also could not document that certain deliverables were received. For example, the agreement provided that seven individuals had responsibilities related to a "Roads Scholar Program," including one individual, for which MTA paid a fee of \$92,819 during fiscal year 2012, whose primary duty was to manage all aspects of the Program. However, MTA management was unfamiliar with the Program and subsequently advised us that the Program had not been active for several years, including fiscal year 2012. In addition, the amounts paid for certain services appeared excessive or varied among similar services and the services were not always provided for in the related task orders.

The Maryland Department of Transportation's response, on behalf of MTA, to our findings and recommendations is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by MTA.

Respectfully submitted,



Thomas J. Barnickel III, CPA  
Legislative Auditor

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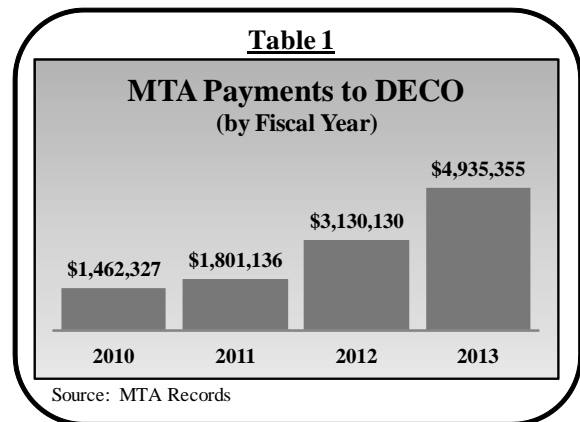
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## Scope, Objectives, and Methodology

We conducted a review of an allegation related to certain interagency agreements between the Maryland Transit Administration (MTA) and Towson University's Division of Economic and Community Outreach (DECO)<sup>1</sup> that was received through our fraud hotline. DECO serves as a conduit through which Towson University can collaborate with businesses, non-profit organizations, government agencies, and community members to provide research and technical services that create solutions addressing issues its clients are facing.

The allegation related to possible violations of State budget and procurement laws and regulations regarding the procurement and use of the agreements. The purpose of our review was to determine whether the allegation we received was valid and to determine if the related activities violated State law, regulations, and policies. This review was performed in accordance with State Government Article, Section 2-1220 of the Annotated Code of Maryland.

At the start of our review we asked MTA management to provide us with a record of all its interagency agreements for fiscal years 2010 through 2013, as well as the related payment activity. MTA was unable to provide us with a comprehensive list; therefore, we compiled a listing for our purposes using payment data obtained from State accounting records. We identified 11 agreements (several of which were renewed annually during our review period) between MTA and DECO with related payments totaling \$11.3 million (Table 1), of which 90 percent were funded by the Transportation Trust Fund, and 10 percent with federal funds. Additional payments were processed both before and after this period that were not subject to our review.



Since the allegation we received related to agreements created by MTA's Office of Training and Development<sup>2</sup> (OTD), we focused our review on the 10 agreements executed by OTD and payments associated with 8 agreements totaling \$10.6 million. OTD was responsible for developing the scope of these agreements, preparing and issuing the related task orders, monitoring the related work, and approving the invoices. The remaining agreement was administered by another MTA unit and was not included in our review.

<sup>1</sup> DECO was renamed the Division of Innovation and Applied Research on December 1, 2012.

<sup>2</sup> This Office is currently known as the Office of Operations Training (OOT).

Our review consisted of tests, analyses, observations, and discussions with MTA and DECO personnel and others, as we deemed necessary, to achieve our objectives. The results of our review of the allegation are identified in Finding 1. Our review identified other issues regarding the use of and monitoring of these agreements which are identified in the remaining findings. Our review did not constitute an audit conducted in accordance with generally accepted government auditing standards. Our review was conducted during the period from March 2013 through August 2013 and was updated for agency actions through July 31, 2014.

The Maryland Department of Transportation's response, on behalf of MTA, to our findings and recommendations is included as an appendix to this report. As prescribed in State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Department regarding the results of our review of its response.

# **Background Information**

## **Agency Responsibilities**

The Maryland Transit Administration (MTA), a unit of the Maryland Department of Transportation (MDOT), is responsible for the construction, operation, and maintenance of the Baltimore metropolitan area transit system and for commuter services in suburban areas of the State. Transit modes in operation primarily include the Metro subway, bus, light rail, and the Maryland Rail Commuter (MARC) service. MTA is headquartered in Baltimore City and maintains a workforce of approximately 3,100 employees.

## **Overview**

Interagency agreements are used by State agencies to obtain services from State institutions of higher education, such as information technology assistance and training. Interagency agreements are exempt from State procurement laws, including the requirements for competitive procurement, publication of solicitations and awards, and Board of Public Works' approval. State budget law requires agencies to report all interagency agreements with institutions of higher education that are valued at more than \$100,000 to the Department of Budget and Management (DBM) which, in turn, is responsible for reporting the agreements to the General Assembly's budget committees. MTA's Office of Training and Development (OTD) entered into 10 interagency agreements with Towson University's Division of Economic and Community Outreach (DECO) for fiscal years 2010 through 2013 to provide various goods and services with related payments under 8 agreements totaling \$10.6 million.

One of the agreements, which was renewed annually, provided for DECO to supply MTA with personnel for various services (referred to as the employment services agreement in this report). While initially for training services, the scope of services under this agreement was expanded to include other services. The number of personnel included under the agreement ranged from 11 individuals in 2010 to 57 individuals in 2013, and the related expenditures increased from \$668,466 in fiscal year 2010 to \$2,961,172 in fiscal year 2013 as shown in Table 2. Payments were based on a fixed price for each individual with an unspecified amount going to DECO for administration of the contract.

The other nine agreements (referred to as course development and delivery agreements in this report) provided for DECO to develop and deliver various training to MTA personnel. The agreements varied in scope and duration and had training topics covering a wide range of subjects such as Microsoft, homeland



security, racial acceptance, and bus operator mentor. The largest of these agreements (master training services) included up to 23 different training courses on various topics (such as violence in the workplace, business writing, and stress management) while the remaining agreements were focused on one area of training. For many of these agreements, MTA prepared task orders that further detailed the work to be performed, including deliverables. In contrast to the employment services agreement, payments under these agreements were generally based on a fixed price per course for development and additional fees for each class delivered, as well as for other deliverables such as development and production of training manuals, DVDs, videos, and online resources.

**Table 2**  
**MTA Interagency Agreements with DECO's Office of Training and Development**  
**(Expenditures by Fiscal Year)**

Description	2010	2011	2012	2013	Total
1 Employment Services	\$ 668,466	\$ 1,044,147	\$ 1,619,451	\$ 2,961,172	\$ 6,293,236
2 Master Training	\$ 260,795	\$ 389,758	\$ 639,669	\$ 1,178,712	\$ 2,468,934
3 First Responder Training	\$ -	\$ -	\$ 727,058	\$ 351,037	\$ 1,078,096
4 Racial Acceptance Training	\$ 124,500	\$ 70,500	\$ 37,419	\$ 16,500	\$ 248,919
5 Homeland Security Training	\$ 194,080	\$ 24,640	\$ 2,400	\$ -	\$ 221,120
6 Bus Operator Mentor Training	\$ -	\$ -	\$ -	\$ 211,400	\$ 211,400
7 Microsoft Training	\$ 22,000	\$ 61,000	\$ -	\$ -	\$ 83,000
8 Management and Leadership Training	\$ -	\$ -	\$ -	\$ 32,500	\$ 32,500
9 Railroad Worker Protection Training	\$ -	\$ -	\$ -	\$ -	\$ -
10 Strategic Business Plan Training	\$ -	\$ -	\$ -	\$ -	\$ -
Source: MTA Records	<b>\$1,269,841</b>	<b>\$1,590,045</b>	<b>\$3,025,998</b>	<b>\$4,751,321</b>	<b>\$10,637,205</b>

Our review disclosed several issues with the usage, cost, documentation, and monitoring of the agreements and related expenditures. Some of these issues were included in our audit report of the University System of Maryland (USM) – Towson University (TU) dated June 18, 2013. The USM Office’s response to that report, on behalf of TU, indicated that it had implemented several monitoring and oversight procedures related to these agreements and for future interagency agreements it would implement a formal recruitment process for employees hired.

After discussing our preliminary concerns with MTA and MDOT management, MTA elected not to renew the aforementioned employment services agreement for fiscal year 2014. We were advised by MTA management that certain of the individuals employed under the agreement have subsequently been placed on the MTA regular or contractual payroll in a manner consistent with State personnel guidelines. We were advised that MTA renewed certain course development and delivery agreements for fiscal year 2014.

We also identified possible conflicts of interest, questionable payments, and poor procedures and controls for the administration of the agreements. Certain of these matters were referred by MTA to the State Ethics Commission in August 2012 prior to the start of our review. In addition, after we notified MDOT management of our preliminary findings, certain matters were referred by MDOT to the Criminal Division of the Office of Attorney General in May 2013. MTA should consult with the Office of the Attorney General before taking any actions related to the findings contained in this report. A referral to the Criminal Division does not mean that a criminal act has actually occurred or that criminal charges will be filed.

## Findings and Recommendations

### Interagency Agreements with Towson University's Division of Economic and Community Outreach (DECO)

#### **Finding 1**

**One Maryland Transit Administration (MTA) employee exercised excessive control over certain interagency agreements. The agreements circumvented State procurement regulations that require competitive bidding and allowed MTA to augment its staff beyond its budgetary positions.**

#### **Analysis**

MTA lacked adequate controls over interagency agreements with Towson University's Division of Economic and Community Outreach (DECO). The agreements circumvented State procurement regulations which require a competitive procurement process and allowed MTA to augment its staff beyond its budgetary positions. Specifically, we noted the following questionable conditions related to the use of the course development and delivery agreements and the employment services agreement.

- One MTA employee had unilateral authority to create and modify the interagency agreements, amendments, and related task orders. Our review disclosed that this employee was the sole MTA signatory on virtually all of the agreements, related amendments, and task orders during fiscal years 2010, 2011, and 2012. (The employee was terminated in November 2012.)
- MTA directed DECO to use private vendors for some or all of the services specified in three of the course development and delivery agreements, thereby circumventing State procurement regulations. For example, our review of one agreement disclosed that DECO subcontracted with private vendors to provide the majority of the services, including printing and reproduction, course development, and project management. In this regard, the subcontractor's invoices accounted for \$983,000 (or 91 percent) of the \$1.1 million MTA paid to DECO. We were advised by DECO management that MTA directed them to the specific vendors to be used for the services and that DECO then entered into agreements with the vendors without obtaining competitive bids.
- The individuals providing services under certain agreements were not independently hired by DECO. For example, in the employment services agreement, MTA identified the individuals who were to be employed by DECO to provide the specified services and the related costs for each

individual. Our review of 25 individuals who were included in one or more employment services agreement during fiscal years 2010 through 2013 disclosed that 19 of these individuals had previously been employed by MTA or by a contractor that performed services for MTA. Additionally, for 15 of these 19 individuals, the duties under the agreement were similar to those performed when the individuals were employed by or for MTA.

The daily monitoring of these individuals, including assigning tasks and ensuring defined responsibilities were performed, was MTA's responsibility and, accordingly, DECO had no apparent involvement. Based on our review, the extent of DECO's involvement under the employment services agreement generally consisted of hiring the individuals specified by MTA and paying their salaries. Although not specified in any of the annual agreements, we were advised by DECO management that the agreement costs included an administrative fee of 10 percent. The invoices did not disclose an administrative fee until the fiscal year 2013 invoices which delineated the administrative costs at 10 percent of the labor fees. Assuming a consistent administrative fee for all contract years, we estimated that administrative fees totaled \$629,324 during fiscal years 2010 through 2013.

DECO's lack of involvement in these agreements was not consistent with its mission to provide a "bridge that links the highly qualified research and project talent of the University to the larger community it serves." Furthermore, MTA's control of the selection, work duties, and oversight raises questions as to the propriety of using interagency agreements rather than competitively procuring the services as required by State Procurement Regulations. Accordingly, assurance was lacking that these services were obtained at the most advantageous prices to the State. MTA management acknowledged that the agreements were used as a mechanism to employ individuals when it lacked budgeted positions to perform the tasks. MTA management further advised that they were unaware that this was an improper use of the agreements and thought it would be an effective way to obtain the required services and personnel needed for various MTA activities.

Since these services were obtained under an interagency agreement between government agencies, MTA was not required to use a competitive procurement process mandated by State Procurement Regulations for service procurements greater than \$25,000.

## **Recommendation 1**

**We recommend that MTA**

- a. ensure that the agreements and related amendments and task orders are subject to independent supervisory review and approval, and**
- b. discontinue its practice of using interagency agreements to circumvent budgetary restrictions and procurement regulations.**

### **Finding 2**

**The cost of certain services under the agreements appeared excessive or varied among similar services, and the related terms of the employment services agreement precluded effective monitoring of hours worked.**

### **Analysis**

The amounts paid for certain services under the agreements appeared excessive or varied among similar services, and the related terms of the employment services agreement did not specify the hours to be worked to enable effective monitoring.

- The amounts paid for certain services appeared excessive. For example, the fiscal year 2012 employment services agreement provided for an annual fee of \$212,509 for one individual to perform certain tasks (that is, to provide project management for MTA transit bus procurements). This fee exceeded the amount the individual was previously paid while working for an MTA contractor (\$132,000 according to the employment application) to perform similar services. MTA paid \$106,255 for this individual for the first half of fiscal year 2012 but MTA management subsequently modified the agreement, reducing this employee's fee to \$67,600 for the last six months of the contract. MTA further reduced the fee in the fiscal year 2013 agreement to \$99,752 per year. MTA management advised us that the reduced fee was based on input from MTA's human resources legal staff.
- The amounts paid varied for similar services. For example, under the 2011 master training services agreement, a task order to provide training to new employees, managers, and interpreters had rates of \$2,000, \$2,750, and \$1,500, respectively, even though each course was a four-hour course and was taught by the same instructor. In addition, the employment services agreement provided for MTA to pay a fee for one individual that was \$8,900 more than the fee paid for another individual working under the agreement who had the same job description.
- The employment services agreement specified salaries but not hours to be worked by the individuals or whether they would be eligible to earn and use

paid leave, precluding effective monitoring. In addition, our test of 10 individual contracts between DECO and the employees and the related timesheets disclosed that the individuals working under the agreement were awarded and subsequently used paid leave while working on the MTA agreement.

MTA could not explain how it developed the pricing for the aforementioned agreements and the reasons for rate and salary variances and there was no independent analysis to determine whether the fees charged by DECO were reasonable.

### **Recommendation 2**

**We recommend that, in the future, MTA ensure**

- a. amounts paid under interagency agreements are reasonable and supported, and**
- b. agreements contain sufficient details to enable effective monitoring.**

### **Finding 3**

**Advanced payment of certain DECO invoices and lack of documentation precluded effective verification of the amounts billed and certain amounts invoiced were inconsistent with or were not authorized in the related task order. MTA did not maintain records of the agreements, amendments, and related task orders.**

### **Analysis**

Advanced payment of certain DECO invoices and lack of support precluded effective verification of the amounts billed and certain amounts invoiced were inconsistent with or were not provided in the related task order. In addition, MTA did not maintain records of the agreements, amendments, and related task orders.

- The employment services agreement specified that MTA would pay DECO prior to the end of each quarter, before the related services were provided. Specifically, MTA made advance payments in quarterly increments during fiscal years 2010 through 2012 based upon the individuals and related salaries listed in the agreements. For example, the July 2011 quarterly billing totaled approximately \$503,000 for services to be provided by 33 individuals. However, MTA did not subsequently verify that the individuals had actually worked the entire quarter. This is significant because individuals were added and removed from the agreement throughout the year.

- For course development and delivery agreements, DECO invoiced MTA for services provided by independent contractors without providing any support for the amounts billed. For example, we noted a May 2011 invoice for \$7,377 for facility fees that did not contain any supporting invoice from the facility or even a listing of the classes for which the fees were being charged.
- The amounts billed on certain invoices under the course development and delivery agreements were inconsistent with or were not authorized in the related task orders. We noted one invoice with charges of \$3,900 for the development and delivery of a retreat when the related task order provided for a fee of \$1,200 for a full-day training session. Another invoice billed \$1,500 per course for facility rental fees when the related task order provided for a rental fee of \$500 per course.
- MTA lacked adequate records of the agreements, amendments, task orders, and related invoices. Specifically, MTA could not provide us with a comprehensive listing of the agreements with the related expenditures. In addition, during the course of our review, MTA was unable to provide us with copies of numerous agreements, amendments, task orders, and certain invoices. As a result, we obtained numerous documents from DECO (many of which lacked signatures of MTA and/or DECO employees) and we created financial records by reviewing payment activity and the supporting invoices.

As a result of the aforementioned conditions, there is a lack of assurance that the amounts paid to DECO under the agreements were proper.

### **Recommendation 3**

**We recommend that MTA**

- only process payments after the related goods and services are received,**
- ensure that adequate documentation is obtained to enable verification of amounts invoiced,**
- ensure billings are consistent with the amounts and services specified in the related task orders, and**
- ensure that copies of all executed interagency agreements and task orders are on file and that accounting records properly reflect all related transactions for each agreement (amount of agreement, expenditures to date, and available balance).**

**Finding 4****MTA could not document that certain deliverables were received.****Analysis**

MTA could not document that certain deliverables were received. We requested documentation to support the work provided by five individuals included in the employment services agreement during fiscal year 2012 for which MTA paid DECO \$571,340. One contracted individual was to conduct employee performance evaluations and development reviews and develop training programs, among other duties. MTA could not provide us with any documentation for the work performed by this individual and by another individual for which MTA paid a total of \$154,815 for both. For the remaining three individuals, only minimal documentation was provided which did not support the deliverables required by the agreement. Two of these five individuals had responsibilities related to a “Roads Scholar Program,” including one for which MTA paid a fee of \$92,819 during fiscal year 2012, whose primary duty was to manage all aspects of the Program. However, MTA management was unfamiliar with the Program and subsequently advised us that the Program had not been active for several years, including fiscal year 2012. Upon further review of the fiscal year 2012 agreement, we identified seven individuals having responsibilities related to this Program.

We also requested documentation of deliverables for 10 invoices from the fiscal year 2012 course development and delivery agreements totaling \$412,708. MTA could not provide any documentation (including a list of attendees or training materials) for charges on 6 of the invoices totaling \$90,962. For another invoice totaling \$114,875, MTA could only provide us with an invoice from a subcontractor for \$76,103 and excerpts of some course materials but had no listing of the attendees. The only documentation for the remaining amounts invoiced was generally reports from MTA’s continuing education tracking database. In this regard, the reports indicated that one of the courses for which MTA was invoiced \$1,100 had been cancelled and another was attended by only one employee. As a result, there is a lack of assurance that the courses were held and whether the use of the agreements was cost-effective.

**Recommendation 4****We recommend that MTA**

- a. ensure all deliverables are received prior to making related payments;  
and**
- b. determine whether the aforementioned deliverables were obtained and  
take appropriate corrective action, including the recovery of funds.**



**Finding 5****MTA did not take adequate follow-up action when certain questionable activities of one employee were identified.****Analysis**

MTA did not take adequate follow-up action when questionable activities on the part of the MTA employee administering the agreements were identified. Specifically, MTA officials were notified that DECO subcontracted the work on one course development and delivery agreement to a company owned by this MTA employee's spouse. In addition, the employee added the former DECO contract monitor (after the individual separated from DECO) to the 2012 employment services agreement for which MTA was to pay a fee of \$77,200 (subsequently reduced to \$32,500) to perform functions that were DECO's responsibility to perform. This DECO employee was the liaison for the MTA agreements including the aforementioned agreement involving the MTA employee's spouse's company.

MTA conducted two reviews that focused on these two allegations, corroborated the allegations, and identified other control deficiencies (such as the employee having unilateral control over the agreements as noted in Finding 1). MTA subsequently notified the State Ethics Commission of the possible conflict of interest involving the contract with a company owned by an MTA employee's spouse and, in February 2013, the Commission concluded that the employee had violated State Ethics Law. Specifically, the Commission concluded that the employee violated certain conflict of interest provisions by participating in matters relating to the spouse's business and by holding a financial interest in an entity that subcontracted on a contract with a governmental unit. MTA subsequently terminated the employee in November 2012.

However, MTA did not conduct a thorough review of the agreements and the propriety of the related expenditures. Rather, the aforementioned reviews focused on a limited number of transactions under two agreements. In addition, MTA did not refer this matter to the Office of the Attorney General's Criminal Division and the Governor's Chief Legal Counsel as required by a Governor's Executive Order. Subsequent to our inquiries and discussions with management from the Maryland Department of Transportation – Office of the Secretary, the issue was referred to the Criminal Division in May 2013.

MTA's lack of follow-up is significant because our review of one agreement, which involved other subcontractors including the employee's spouse, disclosed numerous questionable transactions. For example, the agreement was modified several times by the employee, increasing the cost from \$500,000 to \$1.1 million

without any documentation or additional services to justify the increase, and the related services all fell within the scope of the initial agreement. In addition, DECO provided MTA with little documentation for contractor and subcontractor charges totaling \$968,100 (including approximately \$200,000 for work performed by the aforementioned company owned by the MTA employee's spouse) and the reliability of some of that documentation appeared questionable. Specifically, the only supporting documentation provided was emails from subcontractors to the contractor listing the hours worked and related charges and price quotes from certain subcontractors for designing certain manuals and guides. We question the propriety of the price quotes for several subcontractors because they were not printed on letterhead and were similar in appearance (for example, same font type and size); furthermore, the documents were often undated and lacked any signatures. Finally, under that agreement we noted that DECO invoiced MTA \$110,000 for work performed by DECO personnel with rates ranging from \$35 to \$47 per hour plus an overhead rate of 45 percent. However, the hourly rates and related overhead were not provided for in the agreement and the invoices did not include any information on what services were provided.

#### **Recommendation 5**

##### **We recommend that MTA**

- a. after consultation with the Attorney General, review the aforementioned transactions and recover any amounts that were determined to be improperly billed;**
- b. conduct a thorough review of the agreements and all related payments and take appropriate follow-up action; and**
- c. notify the Governor's Chief Legal Counsel of the aforementioned questionable activity and, in the future, notify the appropriate entities in accordance with the aforementioned Executive Order.**

**APPENDIX**



**Maryland Department of Transportation**  
**The Secretary's Office**

**Lawrence J. Hogan, Jr.**  
Governor

**Boyd K. Rutherford**  
Lt. Governor

**Pete K. Rahn**  
Acting Secretary

January 30, 2015

Thomas J. Barnickel III, CPA  
Legislative Auditor Manager  
Office of Legislative Audits  
Department of Legislative Services  
301 West Preston Street, Room 1202  
Baltimore MD 21201

Dear Mr. Barnickel:

Enclosed please find the Maryland Department of Transportation's (MDOT) responses to the Legislative Auditor's draft special review dated January 2015 for the Maryland Transit Administration's (MTA) Interagency Agreements with Towson University.

On behalf of the men and women of MDOT, the activities detailed in this special review are completely unacceptable and totally inconsistent with the Department's responsibility to serve the citizens of Maryland with integrity, trust, accountability, and transparency. The egregious behavior and lack of even basic checks and balances disclosed in this report are serious matters and will not be tolerated. MTA has referred this matter to the Criminal Investigations Division of the Office of the Attorney General for their review to determine possible criminal wrongdoing.

From 2012 to 2014, MTA has improved record-keeping and payment authorization practices and put new procedures in place that require additional scrutiny, oversight, and approval of interagency agreements. These newly adopted procedures will prevent this from occurring again.

I would like to thank your staff for their thorough examination and professional conduct displayed during this review. We agree with all of the findings. Enclosed, please find our detailed responses to each of the recommendations. An electronic version has also been forwarded by email. If you have any questions or need additional information, please do not hesitate to contact me or Mr. David L. Fleming, MDOT Chief Financial Officer, at 410-865-1035.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete K. Rahn", written over a circular stamp area.

Pete K. Rahn  
Acting Secretary

Confidential Enclosures

cc: Ms. Brenda Cachuela, Director, Office of Audits, MDOT  
Mr. David L. Fleming, Chief Financial Officer, MDOT  
Mr. Robert L. Smith, Administrator, MTA  
Mr. Matthew Streett, Audit Manager, Office of Legislative Audits, Maryland General Assembly+  
Ms. Channel Sumpter, Director of Audits, MTA  
Ms. D'Andrea Walker, Deputy Administrator, MTA

My telephone number is 410-865-1000  
Toll Free Number 1-888-713-1414 TTY Users Call Via MD Relay  
7201 Corporate Center Drive, Hanover, Maryland 21076

**Maryland Department of Transportation  
Maryland Transit Administration  
Special Review Responses  
January 2015**

**Interagency Agreements with Towson University's Division of Economic and Community Outreach (DECO)**

**Finding 1**

**One Maryland Transit Administration (MTA) employee exercised excessive control over certain interagency agreements. The agreements circumvented State procurement regulations that require competitive bidding and allowed MTA to augment its staff beyond its budgetary positions.**

**Recommendation 1**

**We recommend that MTA**

- a. ensure that the agreements and related amendments and task orders are subject to independent supervisory review and approval, and**
- b. discontinue its practice of using interagency agreements to circumvent budgetary restrictions and procurement regulations.**

**Response:**

- a. MTA concurs with the auditors' recommendation. Due to the unacceptable activities detailed in this review, the MTA terminated the employment services agreement with Towson University's Division of Economic and Community Outreach (DECO) effective June 30, 2013, and moved to amend our procedures to require additional scrutiny, oversight and approval of these types of agreements. Effective December 1, 2014, MTA's new Standard Operating Procedure (SOP) requires the Assistant Attorney General and the MTA Administrator to review and approve all interagency agreements and any changes to these agreements. The new SOP mandates that a procurement officer must review and clearly document why each interagency agreement is needed and how the agreement is in the State's best interest. As an additional internal control, MTA established a new SOP that requires the Task Order Review Committee to review and approve all interagency agreement task orders in addition to MTA's regular task orders. MTA has provided the new SOPs to all MTA managers and directors.
- b. MTA concurs with the auditors' recommendation. Under no circumstances will the MTA circumvent budgetary restrictions and State Procurement Laws and Regulations, nor will MTA use interagency agreements to fulfill employment needs. MTA will follow approved personnel and hiring processes set forth in the State Personnel and Pensions Article and Title 2 of the Transportation Article of the Maryland Code, and applicable COMAR regulations. If any MTA employee circumvents state procurement laws and processes, disciplinary action, including possible termination, will be taken. In any ongoing or future interagency agreement, MTA will not be involved in the recruitment and hiring process. Instead, the agency the state partners with will be solely responsible for the job posting, interviewing, employee selection, and salary determination.

**Finding 2**

**The cost of certain services under the agreements appeared excessive or varied among similar services, and the related terms of the employment services agreement precluded effective monitoring of hours worked.**

**Recommendation 2**

**We recommend that, in the future, MTA ensure**

- a. amounts paid under interagency agreements are reasonable and supported, and**
- b. agreements contain sufficient details to enable effective monitoring.**

**Response:**

- a. MTA concurs with the auditors' recommendation. As previously noted, effective December 1, 2014, MTA's new Standard Operating Procedure (SOP) requires the Assistant Attorney General and MTA Administrator to review and approve all interagency agreements and any changes to these agreements. The goal of this new SOP is to institute a series of checks and balances to ensure that all tasks and payments for tasks are reasonable and supported. The new SOP mandates that a procurement officer must review and clearly document why each interagency agreement is needed and how the agreement is in the State's best interest. Subject matter experts will conduct a top-to-bottom review of all proposed costs and task orders issued under these agreements to verify the need for each task and that the amount paid for each task is warranted. As an additional internal control, MTA established an additional SOP that requires the Task Order Review Committee to review and approve all interagency agreement task orders in addition to MTA's regular task orders.
- b. MTA concurs with the auditors' recommendation. The new SOP requires additional scrutiny, oversight and approval of all interagency agreements and mandates that future agreements be written by the Office of Procurement to include a detailed scope of work, deliverables and requirements for monitoring. The MTA will ensure that fees for interagency services provided under these agreements are reasonable and that justification for related fees is thoroughly documented and maintained for audit verification purposes. As previously noted, MTA established a new SOP that requires the Task Order Review Committee to review and approve all interagency agreement task orders in addition to MTA's regular task orders.

### **Finding 3**

**Advanced payment of certain DECO invoices and lack of documentation precluded effective verification of the amounts billed and certain amounts invoiced were inconsistent with or were not authorized in the related task order. MTA did not maintain records of the agreements, amendments, and related task orders.**

### **Recommendation 3**

**We recommend that MTA**

- a. only process payments after the related goods and services are received,**
- b. ensure that adequate documentation is obtained to enable verification of amounts invoiced,**
- c. ensure billings are consistent with the amounts and services specified in the related task orders, and**
- d. ensure that copies of all executed interagency agreements and task orders are on file and that accounting records properly reflect all related transactions for each agreement (amount of agreement, expenditures to date, and available balance).**

### **Response:**

- a. MTA concurs with the auditors' recommendation. The new SOP requires scrutiny, oversight and approval of all interagency agreements and requires that Contract Managers ensure that deliverables are received prior to authorizing payment.
- b. MTA concurs with the auditors' recommendation. The new SOP requires scrutiny, oversight and approval of all interagency agreements and requires that Contract Managers thoroughly document and retain files that detail class registration, class sign in and course outline prior to payment. The new SOP requires that MTA contract managers obtain comprehensive documentation before invoices are paid and retain the invoices and documentation in an electronic library for verification purposes.
- c. MTA concurs with the auditors' recommendation. Currently, MTA's Training Department reviews and verifies the following when paying invoices:
  - 1) Class dates on the invoice agree with class dates in the Learning Management System (LMS);
  - 2) Copies of sign-in sheets have been obtained for each class listed on the invoice;
  - 3) The class roster in the LMS lists employees who have actually completed the class, and that the amounts billed agree with the fees approved in the task order.
- d. MTA concurs with the auditors' recommendation. The new SOP requires that MTA's Procurement Department enters any interagency agreements information into the Financial Management Information System (FMIS) and keeps all interagency agreements on file. If the interagency agreement is a Master Agreement that includes task orders, the new SOP mandates that each task order also be entered in FMIS by the Procurement Department. In addition, invoices and back up documentation must be securely stored in an electronic document library by the Contract Managers. Contract Managers also use Excel to track expenditures against each task order.

**Finding 4****MTA could not document that certain deliverables were received.****Recommendation 4****We recommend that MTA**

- a. ensure all deliverables are received prior to making related payments; and**
- b. determine whether the aforementioned deliverables were obtained and take appropriate corrective action, including the recovery of funds.**

**Response:**

- a. MTA concurs with the auditors' recommendation. Contract Managers are required to receive deliverables prior to authorizing payment. Contract Managers will retain information in the files which details class registration, class sign in and course outline prior to payment.
- b. MTA concurs with the auditors' recommendation. As stated above, the MTA issued a new SOP dated December 1, 2014, to managers and directors for implementation and monitoring of interagency agreements. The new SOP requires contract managers to ensure that deliverables are received prior to authorizing payment. With regard to the aforementioned deliverables, MTA's Training Department and Office of Finance is currently conducting an extensive evaluation of the fiscal year 2012 course development and delivery agreements to determine if the agreed upon deliverables were obtained. This evaluation will be complete by July 31, 2015. Any necessary corrective action will be taken based on the results of the investigation.

**Finding 5**

**MTA did not take adequate follow-up action when certain questionable activities of one employee were identified.**

**Recommendation 5**

**We recommend that MTA**

- a. after consultation with the Attorney General, review the aforementioned transactions and recover any amounts that were determined to be improperly billed;**
- b. conduct a thorough review of the agreements and all related payments and take appropriate follow-up action; and**
- c. notify the Governor's Chief Legal Counsel of the aforementioned questionable activity and, in the future, notify the appropriate entities in accordance with the aforementioned Executive Order.**

**Response:**

- a. MTA concurs with the auditors' recommendation. The MTA and the Maryland Department of Transportation notified the State Ethics Commission and the Office of the Attorney General's Criminal Investigations Division of the issues identified in the findings above. The aforementioned transactions are currently being investigated by the Attorney General's Criminal Investigations Division. Upon the completion of the investigation, if it is determined there were improper transactions, the MTA will review the transactions and will seek to recover any amounts improperly billed.
- b. MTA concurs with the auditors' recommendation. MTA is currently conducting a review of the aforementioned agreements and the related payments. The MTA will take the appropriate follow-up action after this review is completed and all payments are reconciled. The review will be completed by July 31, 2015.
- c. MTA concurs with the auditors' recommendation. The MTA has notified the Governor's Chief Legal Counsel of the aforementioned questionable activity. In the future, the MTA will ensure that the appropriate entities are notified in accordance with the Governor's Executive Order.