

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

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February 27, 2018

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee
Delegate C. William Frick, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We conducted a review of the \$3.68 million payment made by the Department of Information Technology (DoIT) for services provided by contractors under an October 2016 work order related to the eMaryland Marketplace (eMM), an internet-based procurement system.

The purpose of the review was to determine whether the charges submitted by the contractors to the State to support the payment were proper. This review was performed at the request of the Maryland General Assembly's Joint Audit Committee.

At the request of DoIT, a contractor under an existing statewide eGovernment services master contract proposed to meet certain procurement-related goals and process improvements, and provide day-to-day project management and oversight. Under the arrangement, the statewide contractor would use the State's existing eMM vendor as a subcontractor since that vendor's proprietary software was integral to the proposal.

The proposal provided for four primary services: (1) management and training; (2) upgrade and launch of a new version of eMM; (3) strategic sourcing and supplier enablement; and (4) procure-to-pay implementation. This latter service would result in the replacement of the existing procurement component of the State's Financial Management Information System (FMIS), which is overseen by the Comptroller of Maryland and DoIT. The resulting work order, which included by reference the services outlined in the statewide contractor's proposal, was executed on October 14, 2016. On March 3, 2017, DoIT suspended the work order at the request of the Comptroller.

On July 26, 2017, the Board of Public Works (BPW) approved the request of DoIT and the Department of General Services (DGS) to make a retroactive payment to the eMM vendor totaling \$3,682,404 for work performed between October 16, 2016 through July 26, 2017 under the aforementioned work order. This payment consisted of amounts to be paid to the statewide contractor (\$500,512), and eMM subscription and hosting fees (\$783,761); the remainder (\$2,398,131) represented the eMM vendor's labor charges.

Our review of the approved work order disclosed the State had no direct financial obligation to the statewide contractor and its subcontractor for their costs associated with the work order because the contractor was authorized to charge a convenience fee to vendors using eMM to sell goods and services to State agencies and other entities. Under this arrangement, there was no apparent need for DoIT to require within the approved work order either the statewide contractor or its subcontractor to maintain records that are typically necessary under State contracts for which payment terms are based on the use of time and materials, which was ultimately the primary basis for the retroactive payment. Consequently, the approved work order did not include terms and conditions to help the State ensure that payments were only made based on documented costs and that the work effort and progress on deliverables met expectations.

We obtained a billing summary and other evidence and explanations as to how the \$3.68 million retroactive payment was calculated, but certain amounts billed could not be substantiated and, in some cases, raise questions that would require additional follow-up by the State to resolve.

Although the billing summary identifying the basis for the retroactive payment was mathematically accurate, we noted that the eMM vendor and the statewide contractor charged for labor occurring prior to work order execution (\$250,493) and after work order suspension (\$522,071). Whether these charges are appropriate is unclear, given that DoIT was aware that the eMM vendor and statewide contractor were performing work during those periods. Current DoIT management advised us that when a project is suspended or cancelled, the vendor is expected to stop all work immediately and that the vendor may choose to continue working "at risk" without expectation or guarantee of compensation.


We also noted that the eMM vendor included indirect labor hours costing \$243,016 even though the rates used for direct labor hours already incorporated indirect costs. Finally, the subscription and hosting fees charged by the eMM vendor based on information provided by DoIT and the eMM vendor appear to be approximately \$109,000 higher than they should have been.

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Although there was evidence of work being performed by the statewide contractor and the eMM vendor, we were unable to determine whether the 13,788 labor hours reported by the contractors were justified relative to work progress and expected outcomes. Neither the statewide contractor's nor the eMM vendor's reported labor hours were categorized to determine the hours spent for each of the four primary services, and a project plan was never approved by DoIT to help identify the level of effort expected for these services. According to DoIT, no deliverables for the four primary services were accepted.

Our comments regarding the scope, detailed objectives, and methodology and detailed observations for this review follow. We did not obtain responses from DoIT and other State officials since there are no recommendations.

Respectfully submitted,



Thomas J. Barnickel III, CPA
Legislative Auditor

cc: Joint Audit Committee Members and Staff
Senator Thomas V. Mike Miller, Jr., President of the Senate
Delegate Michael E. Busch, Speaker of the House of Delegates
Senator Edward J. Kasemeyer, Chair, Senate Budget and Taxation Committee
Delegate Maggie McIntosh, Chair, House Appropriations Committee
Governor Lawrence J. Hogan, Jr.
Comptroller Peter V.R. Franchot
Treasurer Nancy K. Kopp
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Secretary Ellington E. Churchill, Jr., DGS
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Office of Legislative Audits Review

Review of a Retroactive Payment for Certain Services

Scope, Objectives, and Methodology

We conducted a review of the \$3.68 million payment made by the Department of Information Technology (DoIT) for services provided by contractors under an October 2016 work order related to the eMaryland Marketplace (eMM) electronic procurement system. This review was performed at the request of the Maryland General Assembly's Joint Audit Committee (JAC). In accordance with the request, we reviewed the work order and associated costs to determine whether those charges submitted by the contractors to the State were proper. Our review had the following objectives:

1. Review the contents of the October 2016 work order, the related requests, and the contractor proposal documents to identify relevant requirements pertaining to the desired services and compensation;
2. Review the documentation supporting the \$3.68 million payment to determine the propriety of the charges; and
3. Determine the extent and value of the work performed under the work order.

We conducted the review under the authority of the State Government Article, Section 2-1220(b) of the Annotated Code of Maryland. The scope of our review was less than that of an audit conducted in accordance with generally accepted government auditing standards. The scope did not include an evaluation of internal controls over compliance with State laws, rules and regulations, or an assessment of DoIT's compliance with those laws, rules and regulations. We believe that the work performed, and the related observations made, satisfactorily fulfilled the JAC's request.

To accomplish our objectives, we interviewed various personnel including former and current employees and management at DoIT, the Department of General Services (DGS), and the Board of Public Works (BPW), as well as management officials with the contractors.¹ In addition, we reviewed numerous records that related to the work order, such as draft project plans, presentations, and status reports. We also reviewed available financial records, such as, billing summaries, procurement records, as well as certain email communications, and a variety of other pertinent documents made available to us. Additional procedures related to

¹ During the period covered by this review, there were significant changes in DoIT management, including the Secretary, executive management, and project management officials.

each specific objective are included under the Auditor Observations section of this letter.

The results of this review are presented as detailed observations under each of the aforementioned objectives. Since there are no recommendations, an agency response was not warranted.

Background Information

eMaryland Marketplace

The eMaryland Marketplace (eMM) is an internet-based procurement system. State laws and regulations generally provide that eMM is to be used by State agencies, counties, municipalities, public institutions of higher education, public schools, and other entities to publish solicitations and contract awards for goods and services over a specified value. eMM has other functionality, such as electronic receipt of bid documentation and bid tabulation; however, use of these functions is not required by law and varies between State agencies. Since its inception in March 2000, the Department of General Services (DGS) – Office of Procurement and Logistics (OPL) and DoIT have contracted with independent companies to develop, operate, and maintain eMM.

State law initially provided that the costs for the development and operation of eMM would be covered via subscription fees paid by vendors using the system. The law was changed in 2005, eliminating the subscription fee, and was replaced with the current statute which provides that units using electronic means to conduct procurement may charge bidders a reasonable fee (convenience processing fee) contingent on BPW approval. In August 2011, BPW approved a new eMM contract and granted DGS the authority to charge a one percent convenience fee, assessed on electronic transactions for DGS-controlled electronically procured contracts. In fiscal year 2016, DGS collected approximately \$2.4 million in convenience fees.

2011 eMM Contract

Upon approval by BPW, DGS – OPL entered into a five-year contract with a vendor (herein after referred to as the eMM vendor), to develop, operate, and maintain a new eMM system using the eMM vendor’s software. The contract covered the period from August 15, 2011 through August 14, 2016, and was subsequently amended to extend the term to October 15, 2016.² The eMM vendor was paid \$3.9 million of which, according to the amounts established in the price proposal and related modifications, \$3.8 million consisted of monthly fees for hosting, maintenance, and support of its software, including access to all upgrades at no additional cost (see table).

Period	Monthly Cost	Total Period Cost
August 15, 2011 – August 14, 2012	\$73,483	\$881,800
August 15, 2012 – August 14, 2013	\$73,483	\$881,800
August 15, 2013 – August 14, 2014	\$60,833	\$730,000
August 15, 2014 – August 14, 2015	\$60,833	\$730,000
August 15, 2015 – October 15, 2016	\$39,625	\$554,750
Total		\$3,778,350

Source – DGS records

The eMM vendor was also to develop an interface between eMM and the State’s Financial Management Information System (FMIS). However, as noted in our November 8, 2013 audit report on DGS – OPL, the interface was never completed. In May 2015, DGS – OPL and the eMM vendor agreed to a contract modification to eliminate the interface requirement, and DGS – OPL was to reduce its total payment to the eMM vendor by \$39,625.

The 2011 eMM contract also included a five-year extension option at a cost of approximately \$2.4 million. DGS – OPL did not exercise the contract extension option so the contract expired in October 2016. After the contract expired, the responsibility for day-to-day operation of eMM shifted to DoIT to help implement new State procurement initiatives being developed in conjunction with the Commission to Modernize State Procurements.

Commission to Modernize State Procurements

On February 10, 2016, the Governor issued an Executive Order creating the Commission to Modernize State Procurements (Commission) tasked with providing a comprehensive report on the State’s procurement statutes, regulations, policies, and procedures, and with making recommendations for improvement. The DoIT Secretary served as the chair of the Commission’s Efficiencies Workgroup which identified that an upgrade to the eMM software was going to be available and that there were opportunities for improving eMM including integration into FMIS. DoIT, in conjunction with the Commission, decided to re-

² Although the contract ended October 15, 2016, DGS paid for these services through October 31, 2016.

launch eMM to meet the goals and process improvements of this Workgroup and the Commission. This relaunch was pursued by DoIT using its existing statewide master contract for self-funded eGovernment services.

Statewide Master Contract for Self-funded eGovernment Services

The statewide master contract, which was executed with a contractor (hereinafter referred to as the statewide contractor) in August 2011 for a five-year period but was extended to August 2018, provided for the design, development, hosting, operation, and maintenance of eGovernment products and services. This was a work order-based, indefinite quantity, master contract under a self-funded model leveraging fees for select services managed by DoIT, but available for use by all State agencies.

The statewide master contract allowed for five different compensation methods. One such method consisted of a convenience fee whereby the vendors using eMM were directly charged for the service provided. Another compensation method provided for either a fixed cost or reimbursement on a time and materials basis, using DoIT-approved hourly labor rates.

Work Order Request, Proposal, and Execution

In August 2016, DoIT issued a work order request to its statewide contractor for the replacement of the Advanced Purchasing Inventory Control System (ADPICS) procurement component of FMIS using upgraded and enhanced eMM software.³ The work order request also provided for strategic sourcing and supplier enablement, management of the system, and training. According to the request, these capabilities would provide several benefits to the State and its vendors including, providing a one-stop-shop for all procurement functions; re-engineering procurement processes across all procurement units; improving transparency and accountability; improving reporting to allow better strategic sourcing for ongoing savings; and making it easier for vendors to do business with the State.

On October 14, 2016, the statewide contractor submitted a detailed work order proposal to provide all the services in DoIT's work order request whereby the statewide contractor would meet the goals and process improvements of the Commission and provide day-to-day project management and oversight. The proposal also stated that the State's existing eMM vendor would be a subcontractor. In this regard, the eMM vendor's proprietary software was integral to the proposal.

³ ADPICS is used to record the processing of procurement actions related to competitive sealed bidding, sole source procurements, small procurements, and contracts.

The proposal provided for four primary services, which are further described in objective 1 under the Auditor Observations section:

1. Management and Training
2. Upgrade and launch of new version of eMM
3. Strategic Sourcing and Supplier Enablement
4. Procure-to-Pay Implementation

The statewide contractor estimated that the work would be completed and available in a production environment within 12 to 16 months after the approval of the project plan. The statewide contractor proposed to collect a one percent convenience fee charged to certain vendors using eMM.

The resulting work order, which included by reference the tasks outlined in the statewide contractor's proposal, was executed on the same date as the proposal (October 14, 2016). The work order did not have a defined termination date and only provided that the work order would end when terminated in accordance with the aforementioned statewide master eGovernment services contract. There were no limits established or estimates made regarding the total compensation the statewide contractor would receive under this work order.

Work Order Suspension

On March 3, 2017, DoIT suspended the work order at the request of the Comptroller of Maryland – Office of the Comptroller (OOC) due to concerns with the work order. Specifically, the OOC noted the following concerns:

- A system requirement analysis had not been performed, and DoIT failed to engage necessary agencies and key departments to identify stakeholder needs;
- The total compensation to the vendor was unknown with no cap established, and the State would have no control or ability to monitor convenience fee collection milestones;
- DoIT failed to follow the operating agreement between DoIT and OOC dated March 8, 2010 that required DoIT to confer with OOC on any proposed changes that impacted FMIS;
- DoIT did not competitively procure these services although competition was available; and
- The eMM vendor's capability to deliver services was questionable based on its past performance with Maryland.

OOC recommended that DoIT (a) suspend the work order; (b) enter into negotiations with the eMM vendor with the goal of contracting directly for the

continued operation and hosting eMM; and (c) require the eMM vendor to upgrade the eMM software to a newer version. We were advised by DoIT management that it held negotiations with the eMM vendor to address the aforementioned OOC recommendations. Based on available documentation, it appears that these negotiations occurred between May and July 2017.

We were also advised that at the time of the suspension, no deliverables had been accepted by the State, and no payments had been made for these services. In this regard, DGS collected approximately \$526,000 in convenience fees between November 1, 2016 and February 28, 2017, which should have been paid to the statewide contractor in accordance with the work order. However, DGS advised us that it was unable to pay the statewide contractor because it had no formal contract with the statewide contractor.

During the negotiations, three options were presented. DoIT chose the option to compensate the statewide contractor and the eMM vendor based on the number of hours they had worked on the work order using the hourly rates in the statewide master eGovernment services contract. The eMM vendor was also to be compensated for subscription fees and hosting of eMM.

According to current DoIT management, it felt compelled to agree with the vendor's terms during the negotiations due to the eMM vendor's stated intention to discontinue the operation of eMM.

Board of Public Works' Approval of Payment Related to Work Order Services

At the July 26, 2017 BPW meeting, DoIT and DGS requested approval for a retroactive payment to the eMM vendor totaling \$3,682,404 for work performed between October 16, 2016 through July 26, 2017 under the aforementioned work order.⁴

DoIT's Secretary testified that the retroactive payment was for charges related to eMM enhancements and development from October 2016 through March 2017 (no exact dates were provided), and hosting of eMM through July 26, 2017. DoIT's Secretary advised BPW that the compensation was negotiated based on the eMM vendor's reported hours worked and the rates from the eGovernment services master contract under which the work order was established. The

⁴ At the same time, BPW also approved a two-year, sole source contract award to the eMM vendor for \$150,000 per month (\$3.6 million over the course of the contract) for continued use, hosting and support of its software for the period from July 27, 2017 to July 26, 2019. This was consistent with the option chosen by DoIT.

retroactive payment was made, in part, for 13,788 labor hours worked by both the eMM vendor and the statewide contractor. BPW acknowledged that the eMM vendor should be compensated, but raised concerns with the amount of the compensation, primarily due to a lack of prior approval and sufficient evidence (such as invoices) of the hours billed and work performed. However, BPW approved the payment and on August 2, 2017, DoIT paid the eMM vendor the \$3,682,404 which is further described in Objective 2 under the Auditor Observations section.

Auditor Observations

Objective 1 – Work Order Content

Objective and Methodology

We reviewed the October 14, 2016 work order and other pertinent documents to identify significant requirements relevant to our overall review, such as the primary services, deliverables and milestones, compensation, and other matters such as administration and oversight.

To accomplish this objective, we performed the following procedures:

1. Interviewed current and former DoIT employees, and statewide contractor and eMM vendor employees, who were directly involved with the preparation and review of documents supporting the approved work order.
2. Reviewed the statewide master eGovernment services contract for any relevant contractual requirements pertaining to the work order.
3. Reviewed the contents of the work order request, proposal, and approved work order to identify the services originally requested, the proposed terms, including the primary deliverables, milestones and compensation, and any other significant provisions that may have been incorporated in the approved work order. We attempted to correlate the work order to the retroactive payment.
4. Reviewed the subcontractor agreement with the eMM vendor to determine the specific roles and terms of this arrangement, and whether additional information pertaining to the work order was included.

Overall Observations

The work order proposal, which was incorporated by reference into the approved work order, identified the primary services, milestones, and compensation. Under

the approved work order, the contractors would be compensated for their costs by charging vendors using eMM and the State would not assume any costs for the work. Because of this compensation arrangement, the work order did not include terms and conditions to help the State ensure that payments were only made based on documented costs and that the work effort and progress on deliverables met expectations. Specifically, the work order did not include any time keeping and reporting requirements, nor the anticipated contractor level of effort or monetary values for each deliverable. These requirements would be necessary for managing payments under a vendor time and materials payment methodology, which was ultimately the primary basis for the \$3.68 million retroactive payment. This situation, as well as other matters noted in Objectives 2 and 3, precluded us from determining whether the statewide contractor's and eMM vendor's reported labor hours and other costs incurred under the work order appeared justified relative to work progress and expected outcomes.

Detailed Observations

Services

The statewide contractor's work order proposal, which was incorporated by reference into the approved work order, included four primary services which identified various products to be delivered:

1. **Management and Training** – provide support and management of the eMM software, administrative/management structure, communication, and training services specific to the upgrades and enhancements resulting from this work order. These services had no specific deliverable date as they were to be provided on an ongoing basis.
2. **Upgrade and launch of new version of eMM** – upgrade the current eMM software from version 13 to version 14, and add ten enhancements to the version 14 software. This would also include hosting of the eMM software, maintenance and operation, software updates, system security and disaster recovery, and customer support. These services were to be provided within three months of the approved project plan.
3. **Strategic Sourcing and Supplier Enablement** – provide services to enhance the procurement process including: (1) review State procurement laws, policies, procedures, contract language, and instructions; (2) conduct a spend analysis to identify best practices which “may help the State realize significant efficiency, effectiveness and economy in its sourcing activities;” (3) promote local cooperative contract participation for development of a sourcing/contract plan; (4) provide a standardized strategic sourcing methodology and training for State procurement officials; and, (5) provide

supplier communications and technical support for the establishment of contract catalogs and contract items for contract ordering. These services were to be provided within nine months of the approved project plan.

4. **Procure-to-Pay Implementation** – implementation of an additional eMM platform that would replace ADPICS and interface directly into the State’s Relational Standard Accounting and Reporting System (R*STARS) accounting software component of FMIS. This component would incorporate all procurement-related processes including sourcing, receiving, vendor registration and management, solicitation, quotes, accounts payable, and requisitioning. The system would have the flexibility to adapt to multiple third-party systems, which would make it easy to integrate and provide users with broader visibility into their procurement activity and allow them to make data-driven procurement decisions. These services were to be provided within 16 months of the approved project plan.

The aforementioned project plan was to be approved by the statewide contractor and DoIT. As noted in Objective 3, the project plan was never approved by DoIT, although work was being performed by the statewide contractor and eMM vendor.

Milestones

The work order proposal established various phases for achieving the desired outcomes and system functionality, with three key milestones requiring State approval:

1. **Exploration and Design** – project planning, design, and configuration.
2. **Interface Readiness and Agency User Acceptance Readiness** – implementation of the approved design and configuration in accordance with the plan, which will include development and testing of the eMM software and other systems provided for in the work order.
3. **User Acceptance Testing** – the State conducts testing of the software to ensure it is functioning as expected. This milestone concludes with the State deciding whether the system should go live.

Other Provisions and Oversight

The proposal also identified the project scope (such as the proposed functionality based on DoIT’s work order request) and the roles and responsibilities of the involved parties for approximately 160 tasks. The statewide contractor was responsible for monitoring the progress of the work order (which was primarily to

be performed by the eMM vendor as a subcontractor) and was to provide weekly status reports on implementation progress, including the summary of the project status, issues/risks, and milestone status. The statewide contractor was also to participate in regularly scheduled meetings with project stakeholders, and consult with DoIT's project manager when deviations occurred.

Compensation

There were no limits established or estimates made regarding the total compensation to be received under the work order. Rather, the statewide contractor was to collect a one percent convenience fee charged to vendors (based on the value of the goods and services purchased by State and other government entities) using eMM for certain statewide contracts, such as computers, wireless services, office supplies, audit services, rock salt, and vehicles. The statewide contractor would retain all the convenience fees up to \$15 million from the vendors and remit 30 percent of any fees above \$15 million to DoIT. The eMM vendor was to be paid by the statewide contractor for its services.

Relationship of Compensation to Contractor Efforts and Work Progress

Under the self-funding model, the State had no direct financial obligation to the statewide contractor and its subcontractor, the eMM vendor, for their costs associated with the work order. Under this arrangement, there was no apparent need and DoIT did not require the statewide contractor or the eMM vendor to maintain records that are typically necessary under time and material contracts, which was ultimately the primary basis for the retroactive payment. Furthermore, other information that could help monitor work efforts and progress relative to payment was not included. Specifically, we noted the following conditions:

- The work order did not require the statewide contractor or eMM vendor to maintain or submit detailed time charges specific to the tasks being performed as part of project management oversight functions. While the eMM vendor did track its time in an electronic time keeping system, the time charges were broken down into billing categories that did not coincide to the services or milestones stated in the work order. The eMM vendor represented that the time reporting was maintained for its internal use and not for reporting or supporting invoices. We were advised that this system was used by the eMM vendor to determine the hours expended under the work order for the retroactive payment, which is further described in Objective 2.
- While the work order established a baseline staffing plan (that is, a list of the types of positions that would be needed) by project phase, it did not provide the anticipated level of effort (such as the number of staff needed, the number

of hours each staff was expected to work, or whether or not certain staff would perform work in more than one project phase).

- The work order did not establish a specific monetary value associated with deliverables, milestones, or progress made on the project.
- The work order did not establish a specific monetary value associated with subscription and hosting software services, which would have continued throughout the life of the work order.

Consequently, the approved work order was not set up for managing payments under a time and materials payment methodology. That is, the approved work order did not provide the necessary information that would allow a direct correlation of either the statewide contractor’s or eMM vendor’s efforts (in terms of hours expended or other costs, such as subscription and hosting services) and work progress and results with the payment made to the vendor for its services (see additional comments in Objective 2). Periodic status reports in the custody of the statewide contractor did provide some indication of work progress (see additional comments in Objective 3) but the status reports could not be used to substantiate or justify the reported hours spent.

Objective 2 – Labor Charges and Other Costs

Objective and Methodology

We reviewed information and documentation to determine the propriety of the \$3.68 million payment to the eMM vendor, which included \$500,512 for the statewide contractor. The primary source for this payment was a billing summary provided by the eMM vendor of the hours worked by the statewide contractor and eMM vendor employees each day as well as the reported costs for eMM subscription and hosting fees. The accompanying table identifies the components of this payment.

Breakdown of Retroactive Payment	
Direct and Indirect Labor Charges	
eMM Vendor	\$2,398,131
Statewide contractor	500,512
Total Labor Charges	\$2,898,643
eMM subscription and hosting fees	783,761
Total	\$3,682,404
Source – Billing Summary	

As noted in Objective 1, the work order was not structured for managing payments under a time and materials payment methodology so we could not assess the reasonableness of the hours the eMM vendor and statewide contractor claimed to have worked while performing services under the work order. As such, our efforts were limited to determining whether the specific items reported on the billing summary were supported.

To accomplish this objective, we performed the following procedures:

1. Interviewed current and former DoIT employees involved in approving the compensation and reviewing the billing support provided as well as the statewide contractor and eMM vendor employees regarding the preparation of the compensation support submitted to DoIT.
2. Requested all evidence DoIT had available, including email communications, pertaining to support associated with the compensation.
3. Requested additional evidence from the statewide contractor and eMM vendor to support the billing summary information.
4. Conducted certain procedures to determine the mathematical accuracy of the billing summary and the propriety of the labor rates used.
5. Participated in a live web-based demonstration of the eMM vendor's electronic time keeping system and requested certain information to confirm data on the billing summary.
6. Provided the eMM vendor with payroll confirmations to be sent to all individuals with hourly time charges pertaining to the eMM vendor's labor charges.
7. Reviewed the charge for subscription and hosting fees and performed certain analyses to determine the reasonableness thereof.

Overall Observations

We obtained some evidence and explanation as to how the \$3.68 million payment was calculated, but certain amounts billed could not be substantiated and, in some cases, raises questions that would require additional follow-up by the State to resolve.

Although the billing summary was mathematically accurate, we noted that the eMM vendor and the statewide contractor charged for labor occurring prior to work order execution (\$250,493) and after work order suspension (\$522,071). Whether these charges are appropriate is unclear, given that DoIT was aware that the eMM vendor and statewide contractor were performing work during those periods. Current DoIT management advised us that when a project is suspended or cancelled, the vendor is expected to stop all work immediately and that the vendor may choose to continue working "at risk" without expectation or guarantee of compensation.

The billing summary included \$243,016 for indirect labor hours. The rates used to calculate the direct charges for eMM vendor employees, per the statewide master eGovernment services contract, already incorporate indirect costs.

Although there is still some uncertainty due to the limitations of our work, it appears that the total direct labor hours included on the billing summary supporting costs totaling \$2,155,115 for the eMM vendor were reasonably supported by the time charges for the work order as recorded on its timekeeping system. Also, completed confirmations from most of the eMM vendor employees generally confirmed their charged hours and positions, the latter of which was necessary to support the labor rates. Due to the methodology used in determining the hours worked, the statewide contractor could not sufficiently substantiate its labor hours and costs totaling \$500,512.

The monthly subscription and hosting fee was significantly higher than the average rate paid under the 2011 eMM Contract. In addition, the subscription and hosting fees charged by the eMM vendor based on information provided by DoIT and the eMM vendor appears to be approximately \$109,000 higher than they should have been.

Detailed Observations

Billing Summary

We found that the billing summary for the labor hours was mathematically accurate (relating to the accumulation of hours and labor costs for each employee) and the rates for the reported positions were generally consistent with the statewide master eGovernment services contract rates table. However, the appropriateness of certain of these charges is unclear because the billing summary included hours worked before the date the work order was executed and after the date it was suspended. The billing summary also included certain indirect costs which appeared duplicative. Specifically, we noted the following conditions:

Hours Charged Prior to Work Order Execution

The billing summary included charges totaling \$250,493 for labor hours prior to the work order being executed on October 14, 2016. Specifically, the eMM vendor charged \$180,128 for work conducted between May 10, 2016 and October 13, 2016 and the statewide contractor charged \$70,365 for work conducted between January 11, 2016 and October 13, 2016. The eMM vendor represented that the work during this period related to scoping, designing, and developing enhancements to the eMM upgraded software in order to meet the anticipated deadlines of the work order. The statewide contractor represented that these charges were primarily related to reviewing the work order request issued on August 10, 2016, and preparation of the work order proposal which was later executed on October 14, 2016.

The charges for the work performed prior to the work order were clearly disclosed in the billing summary and were used by DoIT as the basis for compensation paid. Although there was no explicit authorization by the State to begin work prior to the work order, there were communications between DoIT and both the eMM vendor and statewide contractor suggesting that it was aware the work was occurring. According to DoIT management, the work performed by the statewide contractor would have generally been covered under the scope of their master contract.

Hours Charged After Work Order Suspension

The billing summary included charges totaling \$522,071 for labor hours after the work order was suspended on March 3, 2017. Specifically, the eMM vendor charged \$421,141 for work conducted between March 6, 2017 and May 1, 2017 and the statewide contractor charged \$100,930 for work conducted between March 6, 2017 and April 28, 2017. The eMM vendor represented to DoIT that its time was used to finish certain development and strategic sourcing tasks to produce meaningful data to the State and to expedite the project once it was resumed. The statewide contractor represented that its time was used to work with DoIT and the eMM vendor after the suspension to resolve project issues, support the eMM vendor's continued activities, and provide support to new DoIT leadership.

The charges for the work performed after the work order was suspended were clearly disclosed in the billing summary and were used by DoIT as the basis for compensation paid. Although there was no explicit authorization by the State to continue work after the work order was suspended, there were communications between DoIT and both the eMM vendor and statewide contractor suggesting that it was aware the work was occurring. DoIT current management advised us that when a project is suspended or cancelled, the vendor is expected to stop all work immediately and that the vendor may choose to continue working "at risk" without expectation or guarantee of compensation.

Indirect Labor Hours

The billing summary included \$243,016 for indirect labor hours for the eMM vendor employees. According to the terms of the statewide master eGovernment services contract, the hourly rates, which were used to calculate the direct labor costs for the 52 eMM vendor employees, already included indirect costs and profit.

Support for eMM Vendor Direct Labor Charges

The billing summary included eMM vendor direct labor charges totaling \$2,155,115 (that is, excluding the aforementioned indirect labor costs of \$243,016) incurred by 52 different individuals. The billing summary separated these charges into six budget categories, which, according to the eMM vendor, were intended for its internal use and do not correlate to any specific portion of the work order (although certain descriptions resemble the services listed in the work order).

The eMM vendor represented that the reported direct labor hours were compiled based on information from a May 2017 output report from its electronic time keeping system with certain manual modifications including: (1) the addition of indirect labor hours, (2) the addition of 819 hours for certain individuals that were not utilizing the time keeping system, (3) the position of each individual, and (4) the rates charged for each employee based on their positions and the rates established in the statewide master eGovernment services contract.

In an attempt to validate the hours reported on the billing summary, on January 3, 2018, we participated in a web-based demonstration of the eMM vendor's time keeping system including its report generating functions. During the demonstration, we observed the eMM vendor navigate through the system and demonstrate the detailed level of information available for each employee. For example, the time record for each employee identified the daily hours charged to projects, including those charged to the approved work order.

We judgmentally selected several individuals from the billing summary and observed the eMM vendor generating an output report of the hours charged to the work order by these employees for selected pay periods. For those individuals tested, we were able to trace all hours charged per the billing summary directly to the individual's time reports generated on our behalf.

The eMM vendor also generated an online report of time charges for all the employees that worked on the approved work order similar to the one used to prepare the billing summary. We compared the total time charged to the billing summary, taking into account the aforementioned manual modifications. Our comparison showed that the total hours charged by eMM employees to the work order based on the system generated report exceeded the hours on the billing summary by 645 hours. That is, the system showed more hours were charged by eMM employees than were claimed in the billing summary submitted to DoIT.

Finally, we submitted sealed payroll confirmations for all 52 individuals on the billing summary to the eMM vendor to forward to each of the individuals. The

confirmations requested the individuals to confirm the hours worked, period of time worked, and position based on the information included in the billing summary. As of February 12, 2018, we received responses back from 42 individuals generally confirming that the reported information was accurate.

Based on the work we performed and support we obtained from the eMM vendor, it appears that the total reported hours were reasonable. However, there is still some uncertainty because our work relied on the eMM vendor's system without the benefit of reviewing related processes and the integrity of the aforementioned reports provided by the eMM vendor. In addition, we did not control the distribution of the confirmations (we did not have direct access to employee contact information) and there is a risk that individuals still employed with the vendor might not be forthright if confirmation information was inaccurate.

Support for eMM Vendor Subscription and Hosting Charge

The billing summary prepared by the eMM vendor included a single charge for subscription and hosting fees totaling \$783,761. There was no detail of the period covered by the fee or a breakdown of hosting and subscription costs. The eMM vendor advised us that the charge was based on a rate of \$75,000 per month which was based on certain methodology that we could not substantiate. We did note that this monthly rate was significantly higher than the average monthly rate paid under the 2011 eMM Contract (approximately \$62,000).

Furthermore the \$75,000 monthly rate does not support the \$783,761 fee charged on the billing summary. Specifically, according to DoIT management and available documentation, the hosting and subscription services were provided for 9 months between November 1, 2016 (after the expiration of the 2011 eMM Contract under which DGS paid for hosting and subscription services through October 31, 2016) and July 26, 2017 (when the Board of Public Works approved the new contract for hosting services). At the \$75,000 monthly rate, the total cost for the nine-month period (November 1, 2016 through July 31, 2017) would have been \$675,000 or approximately \$109,000 lower than the amount on the billing statement.

Support for Statewide Contractor Direct Labor Charges

The billing summary prepared by the statewide contractor included a total of 2,138 hours charged by six different individuals with related compensation totaling \$500,512. The statewide contractor represented that the hours were estimated since it did not formally track its time spent on the work order on an on-going basis because its compensation was never intended to be based on the time directly worked on the work order (that is, time and materials compensation methodology). At the request of the eMM vendor, the statewide contractor

manually prepared the billing summary which was an approximation of its time spent on the work order based on the statewide contractor's review of key employee emails, calendar records, and unofficial time tracking.

Although the statewide contractor maintained that it had the ability to provide the support for the calculation of the hours billed, the support was not readily available as the records used were not maintained in a centralized manner and would require extensive research. We requested support for certain hours included on the billing summary. The support evidenced that these individuals worked on the work order on the dates billed, and the related positions were consistent with the statewide contractor's billing summary.

Because the time charges were based on an approximation and approved time records were not provided, we could not substantiate the accuracy of the number of hours charged by the statewide contractor or the propriety of the related costs.

Objective 3 – Extent and Value of Work Performed

Objective and Methodology

We reviewed available documentation to determine the extent and value of the work performed by the statewide contractor and eMM vendor under the work order. Specifically, on September 11, 2017 DoIT provided us access to a document repository that maintained all work products turned over by the eMM vendor after payment was received. In addition, on November 9, 2017 the statewide contractor provided us with access to a separate document repository it established to maintain project artifacts while the eMM project was active. In addition, on January 3, 2018, the eMM vendor provided us with a demonstration of certain work products.

Because of the impediments noted in Objectives 1 and 2, our work under this objective was limited to determining what efforts were made during the several months when the work order was active and the general status of any deliverables. We attempted to identify the efforts and related deliverables associated with each of the three categories of expenditures (eMM vendor labor hours, statewide contractor labor hours, and eMM subscription and hosting fees) supporting the \$3.68 million payment to the eMM vendor.

To accomplish this objective, we performed the following procedures:

1. Interviewed current and former DoIT employees, including management and project management office personnel, and obtained available documentation regarding the project status and related oversight.

2. Interviewed statewide contractor employees regarding its project management oversight services, project status, and work performed under the work order and obtained access to its project management files.
3. Interviewed eMM vendor employees regarding work performed, participated in a live web-based demonstration of the upgraded version of eMM software with Maryland-specific enhancements and obtained documentation pertaining to the vendor's work efforts.
4. Interviewed employees from DGS and obtained their assessment of the eMM vendor's files for one of the primary deliverables.

Overall Observations

While, according to DoIT, no deliverables were formally accepted by the State, both the eMM vendor and the statewide contractor were providing resources to the State in support of the work order. Those efforts were most evident from the statewide contractor's project management documentation. The extent of the work progress relative to each of the four primary services could not be objectively measured due to the absence of an approved project plan. Also, DoIT's stated inability to assess the value and extent of the work, and at times, seemingly conflicting representations and interpretations between State officials, the statewide contractor, and the eMM vendor precluded us from rendering a reliable assessment of the efforts.

Detailed Observations

We were advised by DoIT management that the State had not accepted any of the work associated with the eMM vendor's services. DoIT's assertion is consistent with the statewide contractor's status reports and our subsequent inquiries which indicated that through March 2017 certain work was in progress but no milestone/services were completed. We asked DoIT to review the documentation provided by the eMM vendor and statewide contractor to determine the value of the work performed. DoIT management responded that DoIT lacked the expertise to assess the value or level of effort of work performed and that none of the work completed is likely to have any substantive future benefit.

Extent and Value of eMM Vendor Services

On September 7, 2017, the eMM vendor provided DoIT with all of its work on the project in an effort to support the \$3.68 million retroactive payment. We were advised by the eMM vendor that the products and services it had delivered to the State constitute its best evidence that all of the hours billed have been expended in the performance of the work order. The eMM vendor provided DoIT with 202 electronic files containing the support for the work performed, of which we found 47 files were either duplicate files or blank.

Management and Training

None of the files provided by the eMM vendor specifically related to management services. However, the statewide contractor provided us with access to the repository used to document project management efforts which included 78 files prepared by the eMM vendor primarily relating to status reports, issue tracking, and presentations. We were also provided with several versions of a draft project plan. The eMM vendor also provided 33 electronic files pertaining to training material, such as presentations and manuals on how to use the upgraded eMM software (25 files), and performing strategic sourcing (8 files). According to available training schedules and status reports, no training was actually provided to the State because the other services (detailed below) were not completed and the work order was suspended.

Enhancement and Upgrade of eMM

As of the date of this letter, the State had not implemented the upgraded version of eMM software, and currently uses version 13 that was made available under the prior 2011 eMM Contract. All parties agree that the enhancements and upgraded eMM were never accepted by the State. In this regard, the eMM vendor and statewide contractor maintain that the enhancements and upgrades were presented to the State for testing but current DoIT management denies that it was provided. Rather, current DoIT management advised us that it had only seen presentations of the software, but not an actual demonstration or indication that it was ready to launch.

The eMM vendor provided us with 112 electronic files pertaining to the coordination, research, planning and design of the upgraded eMM software and enhancements, and screenshots of the enhancements. On January 3, 2018, the eMM vendor also provided us with a live demonstration of the enhanced and upgraded version of the eMM software in its test environment, which appeared to include the enhancements requested by the State. Because procurement data had not been loaded into the test environment, the eMM vendor could not demonstrate the actual functionality of the enhancements. Furthermore, the eMM vendor could not provide us with a specific date that each of the enhancements was completed, how much time was spent on each enhancement, or documentation of the notification to the State that it was available for testing.

The eMM vendor advised us that the enhanced and upgraded eMM software was completed and placed in a test environment by the eMM vendor on September 20, 2016 (prior to the execution of the work order), and was being reviewed by DoIT and DGS employees during several working sessions in

January and February 2017. We confirmed with certain of these employees that the enhanced and updated eMM was made available in a test environment to review the software to provide feedback and answer operational questions from the eMM vendor. We noted certain DoIT correspondence indicating that there were many design-related issues identified in the working sessions that remained unresolved at the time the work order was suspended. We were also advised that no user acceptance testing had been performed to assess operational functionality.

Strategic Sourcing and Supplier Enablement

The eMM vendor provided 10 electronic files relating to strategic sourcing, contract prioritization, and a spend analysis. The strategic sourcing and contract prioritization work products recommended certain contracts the State should modify to include the one percent convenience fee. However, we were advised by DGS management that none of the contracts listed were actually modified by the State. No files were provided by the eMM vendor that specifically related to supplier enablement services.

Regarding the spend analysis, at the July 26, 2017 BPW meeting, the eMM vendor stated that "...we pulled all numbers from the State on your statewide contracts. We've looked at them. We've codified them. We benchmarked them against other states. When we do this deal right here [presumably the retroactive payment], you will get all that data. It will be your data, data you've never seen before. And we've projected over the next three years possibly \$750 million in savings because data you've never seen in this State, we got, we looked at, and we cleaned it."

The files relating to the spend analysis appeared to provide a summary of the State's fiscal year 2016 spending by different methodologies (for example, top vendors and product categories) and some additional documents that included observations and preliminary findings. Although there may be other files available that we never received, based on our review of the files provided, we could not ascertain what conclusions, if any, were reached by the eMM vendor.

We requested DGS officials to review the spend analysis files to evaluate the data and determine whether any of it would be usable in saving money as represented by the eMM vendor. DGS officials found that the data were not usable and did not appear to be reliable because it did not represent the State's actual spending.

Procure-to-Pay Implementation

No files relating to the procure-to-pay implementation and integration into FMIS were provided by the eMM vendor. In addition, DoIT and the statewide contractor documentation of the procure-to-pay implementation was limited to references in meeting agendas and minutes, and status reports. This documentation represented that progress in integration design (planning only) was not made due to a lack of State participation. In addition, based on numerous interviews with the eMM vendor and State agency personnel, we were advised that these services never got beyond planning as OOC had serious concerns over the integration process.

Extent and Value of Subscription and Hosting Services

No files relating to the subscription or hosting services were provided by the eMM vendor. However, the current version eMM software was operational during the period of the work order which supports that the State received the subscription and hosting services it requested.

Although we did not obtain evidence to directly support that eMM was continuously operational, DoIT represented that the eMM vendor provided hosting services for the existing eMM software during the work order period for which compensation was paid. We were further advised by the eMM vendor that hosting services were provided.

Extent and Value of Statewide Contractor Services

We obtained access to the statewide contractor's document repository that included all project management support, such as status reports (294 electronic files). The statewide contractor provided evidence to support project management services over the eMM vendor throughout the project. Specifically, the statewide contractor provided 198 documents primarily consisting of project management tools used to manage the project. These documents included risk logs, issue logs, action agendas, and status reports. In addition, the statewide contractor provided several examples of communications between the statewide contractor, the eMM vendor, and DoIT addressing ongoing issues, required revisions, and developed deadlines.

Further, we noted that a project plan had been drafted and, based on status reports, had been submitted to DoIT for approval. However, we were advised by the statewide contractor that it was unable to report the exact project status or progress (such as a percent of completion or estimated date of completion) without a State approved project plan which could have established schedules, timelines, and other expectations to better gauge the work performed and completed. Since the project plan was not approved, and therefore the schedules

and dates were not set, there was no formal way to effectively track or determine the progress of the project.