

Audit Report

**Department of Budget and Management
Office of the Secretary and Other Units**

April 2015



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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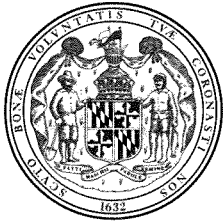
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Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Thomas J. Barnickel III, CPA
Legislative Auditor

April 17, 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 have conducted a fiscal compliance audit of the Office of the Secretary, which includes the Central Collection Unit (CCU), and certain other units of the Department of Budget and Management (DBM) for the period beginning May 23, 2011 and ending July 14, 2014. DBM assists the Governor in the preparation and monitoring of the State's annual operating and capital budgets. CCU is responsible for collecting all delinquent debts due to the State, except those excluded by law (such as taxes and child support).

Our audit disclosed that CCU did not adequately pursue potential wage garnishments from certain debtors for whom eligible wages were identified. Also, controls over system access and sensitive personally identifiable information were not sufficient on CCU's automated application system supporting its collection operation.

DBM's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by DBM.

Respectfully submitted,

Thomas J. Barnickel III, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Department of Budget and Management (DBM) is mainly responsible for assisting the Governor in the preparation and monitoring of the State's annual operating and capital budgets. The Office of the Secretary coordinates the functions of DBM's divisions which include, in addition to the budget process, overseeing certain statewide procurements and providing fiscal and personnel services to State agencies. This audit includes the operations of the following units:

- Office of the Secretary, which includes the Central Collection Unit (CCU)
- Office of Budget Analysis
- Office of Capital Budgeting

DBM's Office of Personnel Services and Benefits (OPSB), which directs State personnel policies and administers the health care benefits programs for State employees and retirees, is audited and reported upon separately.

According to the State's records, DBM's expenditures, excluding OPSB, totaled approximately \$19.4 million during fiscal year 2014.

Central Collection Unit Operation

CCU's primary responsibility is to collect all delinquent debts due the State, except those excluded by law (such as taxes and child support). Collections on debt, less CCU's assessed collection fees, are generally paid to either the State Treasury or the unit of State government where the debt originated.

State law authorizes CCU to assess and collect for each debt a fee sufficient to cover all collection and administrative costs. The fee may not exceed 20 percent of the outstanding principal and interest. Currently, CCU's collection fee is 17 percent which is added to the original debt amount. Collection fees are deposited into the Central Collection Fund, a continuing, non-lapsing special fund used to pay CCU's operating expenses. According to State law, any balance in the Fund at the end of the fiscal year in excess of 15 percent of CCU's actual operating expenses is required to be reverted to the State's General Fund. During fiscal years 2012 to 2014, CCU reverted approximately \$17.5 million to the State's

General Fund. As of July 1, 2014, according to CCU's records, the balance in the Fund totaled approximately \$2.1 million.

CCU's operations include its Baltimore headquarters office and five satellite offices established at selected Motor Vehicle Administration locations to assist primarily in the collection of uninsured motorist penalty fees assessed by the Administration.

The balance of outstanding debt referred to CCU was approximately \$1.9 billion as of June 30, 2014, as noted in the accompanying chart. Approximately half of the outstanding debt was referred by the Department of Transportation (primarily, the Motor Vehicle Administration).

Outstanding Debts			
(at June 30)			
<u>Fiscal</u>	<u>Accounts</u>	<u>Balance</u>	<u>Collections*</u>
<u>Year</u>			
2012	2,060,798	\$1,765,458,762	\$125,717,129
2013	2,155,113	\$1,879,152,111	\$138,492,905
2014	2,425,225	\$1,934,949,017	\$134,590,503

*Collection amounts are net of account adjustments
(such as refunds)

Source: CCU records

Status of Findings From Preceding Audit Report

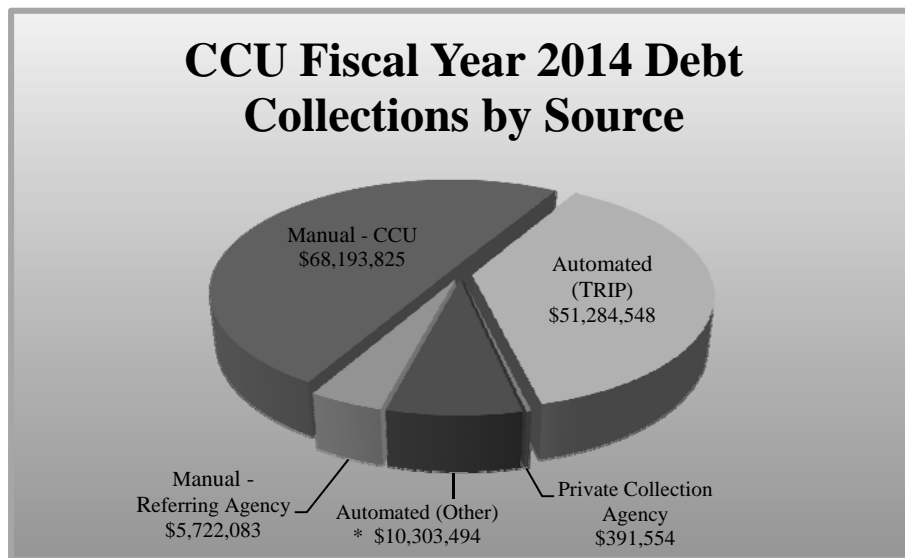
Our audit included a review to determine the status of the four findings contained in our preceding audit report dated June 12, 2012. We determined that DBM satisfactorily addressed two of these findings. The remaining two findings are repeated in this report.

Findings and Recommendations

Debt Collection Efforts

Background

The Department of Budget and Management (DBM) – Central Collection Unit (CCU) uses a variety of methods and resources to facilitate the collection of delinquent accounts, including automated and manual efforts, as well as a private collection agency. Automated collection efforts include the use of the State’s Tax Refund Intercept Program (TRIP), which captures debtor tax refunds, and other automated intercept programs. Manual collection efforts include CCU collection agents working directly with the debtor or with the referring agency where the debt originated. Agents will pursue voluntary payments (such as payment plan agreements) via phone and written correspondence and will also forward selected accounts to the CCU Legal Measures Unit for proactive non-voluntary collection actions, such as wage garnishments and property liens. See the chart below for the details of fiscal year 2014 gross collections totaling approximately \$135.9 million by collection method. (These collections do not include account balance reductions of approximately \$1.3 million that are not available by collection source.)



Source: CCU Records

*Automated (Other) includes State Payroll and Vendor Payment Intercepts, Lottery Winnings Intercepts, and Federal Tax Refund Intercepts

Finding 1**CCU did not adequately pursue potential wage garnishments from debtors.****Analysis**

CCU did not always pursue wage garnishments from debtors when viable accounts were identified through quarterly computer matches of its accounts with State wage data from the Department of Labor, Licensing, and Regulation. CCU's debt collection policies provide that CCU will generally consider pursuing wage garnishments on accounts with debts greater than \$750 and for which wages are currently available to attach.

CCU's October 2014 match identified approximately 50,400 debtor accounts (each greater than \$750) with balances totaling \$137.6 million and wages earned of \$383.9 million during the second quarter of calendar year 2014 that could potentially have been subject to garnishment based on CCU policies. We tested 10 of these debtors, with accounts totaling approximately \$1.7 million, who had not made any debt payments or had not made debt payments for periods ranging from 8 to 46 months. We noted that the Legal Measures Unit was in the process of establishing a wage garnishment for only 1 of these 10 debtors. For the remaining 9 debtors, our test identified that the debtors had earned wages totaling \$132,500 during the quarter but CCU had not referred 8 of these debtors to the Legal Measures Unit to initiate wage garnishments. Furthermore, there was no documentation as to why these debtors had not been referred to the Unit. While the remaining debtor had been referred to the Legal Measures Unit in November 2009, CCU could not explain why a wage garnishment had not been performed.

In addition, CCU conducted a targeted query of these quarterly match results that focused on Motor Vehicle Administration (MVA) debtors (individuals fined for lapses of insurance) who were late on payment plans. This targeted query is performed because MVA debtors represent a significant portion of CCU's accounts and because of the existence of statute of limitation issues. Wage garnishments are an effective collection tool for these debtors that can be used in addition to vehicle registration suspensions that are imposed by MVA. The October 2014 match query identified approximately 13,150 MVA debtor accounts with balances totaling \$23.9 million and wages earned of \$102.4 million during the second quarter of calendar year 2014 that could potentially have been subject to garnishment. We tested 10 of these debtors with accounts totaling approximately \$178,300 who had been delinquent on making debt payments for periods ranging from 5 to 67 months. Our test identified 9 debtors with earned wages totaling \$86,000 during the quarter that could have been subject to wage garnishment but CCU had not referred the debtor to the Legal Measures Unit to

initiate wage garnishments. Furthermore, there was no documentation as to why these debtors had not been referred to the Unit.

Similar conditions regarding wage garnishments have been commented upon in our six preceding audit reports dating back to 1997. CCU management advised us that executing a wage garnishment is an expensive and lengthy process and that it may take months or even years to obtain the required judgments and orders from the courts. CCU further advised us that it uses its limited resources to pursue debts that are likely to produce the best recoveries; however, its policies did not address prioritizing accounts for potential wage garnishments once viable accounts are identified. As of February 2015, CCU management stated that it was in the process of developing such a policy. CCU estimates approximately 3,000 wage garnishments are performed annually.

Recommendation 1

We recommend that DBM take appropriate action to pursue potential wage garnishments from debtors in a timely manner and document all collection efforts (repeat). For example, DBM should consider supplementing CCU's debt collection policies to provide guidance on prioritizing accounts for potential wage garnishments.

Information Systems Security and Control

Finding 2

Controls over system access and sensitive personally identifiable information were not sufficient.

Analysis

Controls over system access and sensitive personally identifiable information were not sufficient. CCU operates the Revenue Plus Collection System (RPCS) which is an automated application system supporting its collection operation. Functions performed include the maintenance of key data including delinquent account details, account balances, account collection status, and details of collection actions.

- Approximately 1,500 users had unnecessary, direct file modification access to certain critical RPCS programs and data files. As a result of this condition, erroneous or unauthorized changes to critical production data could occur. A similar condition was commented upon in our preceding audit report. The State of Maryland Department of Information Technology's (DoIT) *Information Security Policy* states that agencies must ensure that only

authorized individuals (employees or agency contractors) have access to confidential information and that such access is strictly controlled, audited, and that it supports the concepts of “least possible privilege” and “need to know.”

- A critical file in the RPCS contained approximately one million unique social security numbers with associated names, addresses, and dates of birth in clear text. This sensitive personally identifiable information is commonly sought by criminals for use in identity theft. Accordingly, appropriate information system security controls need to exist to ensure that this information is safeguarded and not improperly disclosed. DoIT’s *Information Security Policy* states that agencies should protect confidential data using encryption technologies and/or other substantial mitigating controls.

Recommendation 2

We recommend that DBM

- a. restrict access to critical program and data files to only those users requiring such access (repeat); and**
- b. encrypt all files containing sensitive personally identifiable information.**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the following units of the Department of Budget and Management (DBM) for the period beginning May 23, 2011 and ending July 14, 2014.

Office of the Secretary (including the Central Collection Unit)
Office of Budget Analysis
Office of Capital Budgeting

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine DBM's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included cash receipts, collection practices, accounts receivable, payroll, and procurement and disbursement activities. We also determined the status of the findings contained in our preceding audit report.

Our audit included DBM's administration of the Cigarette Restitution Fund and State Reserve Fund that consisted of the Dedicated Purpose Account, the Revenue Stabilization Account, the Economic Development Opportunities Program Fund, and the Catastrophic Event Fund.

Our audit also included certain support services (such as payroll, maintenance of certain accounting records) provided by DBM's Office of the Secretary to the Office of Personnel Services and Benefits. In addition, it included certain support services (such as legal, internal audit, and budgeting) provided by DBM to the Department of Information Technology.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of DBM's operations, and tests of transactions. We also performed various data

extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data) and the State's Central Payroll Bureau (payroll data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these various sources were sufficiently reliable for the purposes the data were used during this audit. We also extracted data from CCU's debt collection system for the purposes of testing accounts receivable. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

DBM's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

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

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect DBM's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to DBM that did not warrant inclusion in this report.

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



LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lieutenant Governor

DAVID R. BRINKLEY
Secretary

April 16, 2015

Mr. Thomas J. Barnickel III, CPA
Legislative Auditor
State of Maryland
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, Maryland 21201

Dear Mr. Barnickel:

The Department of Budget and Management (DBM) has reviewed your draft audit report for the Office of the Secretary and Other Units (including the Central Collections Unit (CCU)) for the period beginning May 23, 2011 and ending July 14, 2014. As requested, our responses to the findings in the report are attached.

If you have any questions or need additional information, you may contact me at 410-260-7041 or Dick Ihrle, the Department's Compliance Auditor, at 410-260-6058.

Sincerely,

A handwritten signature in black ink, appearing to read 'David R. Brinkley', is written over a large, stylized 'S' shape.

David R. Brinkley
Secretary

cc: Bruce P. Martin, Principal Counsel
Anthony Fugett, Director, Central Collection Unit, DBM
Teresa A. Garraty, Executive Director, Office of Capital Budgeting, DBM
Mary Naramore, Director, Division of Procurement & Policy Analysis, DBM
Marc Nicole, Executive Director, Office of Budget Analysis, DBM
John West, Director, Division of Finance and Administration, DBM

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Department of Budget and Management
Office of the Secretary and Other Units
(including the Central Collections Unit (CCU))
Response to Legislative Audits Findings and Recommendations
Audit Period: beginning May 23, 2011 and ending July 14, 2014

Debt Collection Efforts

<p>Finding 1 CCU did not adequately pursue potential wage garnishments from debtors.</p>
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Recommendation 1

We recommend that DBM take appropriate action to pursue potential wage garnishments from debtors in a timely manner and document all collection efforts (repeat). For example, DBM should consider supplementing CCU's debt collection policies to provide guidance on prioritizing accounts for potential wage garnishments.

DBM CCU Response 1:

DBM CCU agrees that potential wage garnishments from debtors should be adequately pursued in a timely manner. As noted above, the wage garnishment process is complex, expensive and lengthy. DBM CCU uses its limited resources to pursue debts that are likely to produce the most lucrative results. However, DBM CCU also recognizes that not all pursuits of potential wage garnishments will result in collection of the debt.

In response to this previous audit finding, DBM CCU expanded our garnishment and suit staff by seven full time employees. Additionally, DBM CCU's Attorney General Staff expanded their attorney and support staff. The result is that we now file over 6,000 suits per year and over 3,000 wage garnishments per year. Our attorneys have over 10,000 individual debts in the legal pipeline at various stages in the above process. DBM CCU's ability to completely eliminate this finding is directly related to our ability to expand staff and reduce the burden of the garnishment process itself.

Going forward, DBM CCU will continue to make the best use of its resources to collect from debtors and will ensure that collection efforts and/or reasons for not employing a particular method are documented. Further, CCU management has agreed to and is in the process of establishing guidelines that prioritize accounts for potential wage garnishments.

Finding 2

Controls over system access and sensitive personally identifiable information were not sufficient.

Recommendation 2

We recommend that DBM

- a. restrict access to critical program and data files to only those users requiring such access (repeat); and
- b. encrypt all files containing sensitive personally identifiable information.

DBM CCU/DoIT Response 2:

We agree with the recommendations as follows:

- a. The file modification access to RPCS was done in error. The user group containing the approximately 1,500 users with unnecessary access has been removed. Direct file modification access to critical RPCS programs and data files is now limited to only those users requiring access to perform their job functions.
- b. The critical RPCS file noted above cannot be removed in order for the RPCS application to operate. However, DBM CCU utilizes software tools that allow secure and automatic transfer of files as well as file encryption software to ensure encryption of critical, nonpublic personal payment information. In addition, the new CCU Collection system, which is currently planned to be implemented by end 2017, provides for full encryption.

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