

Audit Report

**Maryland Department of Transportation
Maryland Transit Administration**

November 2018



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

For further information concerning this report contact:

**Department of Legislative Services
Office of Legislative Audits**

301 West Preston Street, Room 1202
Baltimore, Maryland 21201

Phone: 410-946-5900 · 301-970-5900
Toll Free in Maryland: 1-877-486-9964

Maryland Relay: 711

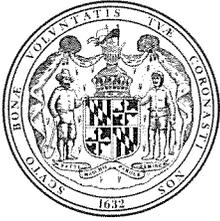
TTY: 410-946-5401 · 301-970-5401

E-mail: OLAWebmaster@ola.state.md.us

Website: www.ola.state.md.us

The Office of Legislative Audits operates a Fraud Hotline to report fraud, waste, or abuse involving State of Maryland government resources. Reports of fraud, waste, or abuse may be communicated anonymously by a toll-free call to 1-877-FRAUD-11, by mail to the Fraud Hotline, c/o Office of Legislative Audits, or through the Office's website.

The Department of Legislative Services does not discriminate on the basis of age, ancestry, color, creed, marital status, national origin, race, religion, gender, gender identity, sexual orientation, or disability in the admission or access to its programs, services, or activities. The Department's Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Requests for assistance should be directed to the Information Officer at 410-946-5400 or 410-970-5400.



DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Thomas J. Barnickel III, CPA
Legislative Auditor

November 20, 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 have conducted a fiscal compliance audit of the Maryland Department of Transportation – Maryland Transit Administration (MTA) for the period beginning December 16, 2013 and ending December 22, 2016. MTA 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.

MTA did not adhere to State procurement regulations in a number of areas and circumvented State procurement regulations for certain procurements that required competitive bidding. Based on referrals through our fraud, waste, and abuse hotline, we identified instances where MTA used existing contracts to obtain unrelated services. For example, \$319,000 was paid for an individual to perform accounting-related services under two existing architectural and engineering contracts. These payments included administrative fees paid to the subcontractors that procured the services at MTA's direction. Additional contract procurement and monitoring deficiencies and certain questionable activities were identified as a result of other referrals to our fraud, waste, and abuse hotline. The results of a separate special review of these allegations will be reported in the near future.

We also found that MTA continued to use interagency agreements with institutions of higher education to circumvent State procurement regulations that require competitive bidding. MTA directed two institutions to enter into agreements with a private vendor to provide services that were outside the scope of the agreements. Related expenditures, which dated back to 2012, totaled \$1.8 million and included \$529,000 in administrative fees paid to the institutions. Task

orders associated with these agreements were not sufficiently detailed to allow MTA to ensure the required work was performed. MTA also did not pursue recovery of approximately \$725,000 in questionable payments made under one of the agreements identified by its Office of Audits.

In addition, MTA lacked sufficient evidence to support certain sole source procurements, required bid documentation was not maintained for two large procurements, and MTA repeatedly procured services from two vendors using the corporate purchasing card without soliciting competitive bids. We also noted that MTA paid \$6.1 million to a vendor to clean its light rail vehicles without ensuring the required work was performed.

Our audit also disclosed that malware protection for MTA's computers was not sufficient to provide MTA with adequate assurance that its computers were properly protected. In addition, MTA had not established adequate controls over payroll and pension processes for union employees. For example, all payroll employees had system capabilities granting them full control over payroll transactions, and terminated employees were not removed from the payroll system in a timely manner.

MTA had not established sufficient controls over the Mobility Paratransit Program to ensure that only eligible individuals received benefits. Finally, MTA had internal control deficiencies relating to cash receipts and equipment. For example, MTA did not adequately control and account for its Consignment Center and Transit Store collections which totaled \$13.3 million during fiscal year 2016.

The Department's response to this audit, on behalf of MTA, 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,



Gregory A. Hook, CPA
Legislative Auditor

Table of Contents

Background Information	5
Agency Responsibilities	5
Outstanding Request for Attorney General Opinion on State Excise Taxes	5
Red Line	6
Purple Line	6
Status of Findings From Preceding Audit Reports	7
Findings and Recommendations	9
Contract Procurement and Monitoring	
Finding 1 – The Maryland Transit Administration (MTA) used certain contracts as a means to obtain services that were outside the scope of those contracts, circumventing competitive procurement requirements, and related task orders lacked details of contract deliverables. Increases in hourly rates charged were excessive based on MTA guidelines.	9
* Finding 2 – MTA did not always adhere to State procurement regulations with respect to sole source procurements, contract award requirements, and bid documentation, and certain monitoring efforts were not adequate.	11
* Finding 3 – Proper internal controls were not established over the processing of purchasing and disbursement transactions.	14
Interagency Agreements	
* Finding 4 – MTA used interagency agreements to circumvent State procurement regulations that require competitive bidding.	15
Finding 5 – MTA did not follow up on the results of a review conducted by its Office of Audits regarding payments made to and deliverables required from a State university under an interagency agreement. The review disclosed, for example, approximately \$725,000 in payments that should be recovered.	16
* Denotes item repeated in full or part from preceding audit report	

*	Finding 6 – Interagency agreements were not adequately monitored. Task orders were not sufficiently detailed to allow for adequate monitoring and certain payments were not consistent with or were not provided for in the related task orders.	17
	Mobility Paratransit Program	
	Finding 7 – MTA lacked adequate controls to ensure that only eligible individuals received Program services.	19
	Union Payroll and Pensions	
	Finding 8 – MTA had not established adequate controls over its union payroll and pension processes. All payroll employees had capabilities granting them complete control over payroll transactions.	21
	Cash Receipts	
	Finding 9 – MTA did not adequately control and account for collections received at its Consignment Center and Transit Store, and bus fare collections were not always deposited timely.	23
	Equipment	
	Finding 10 – MTA did not ensure that all equipment purchases were properly recorded in its detailed equipment records.	25
	Information Systems Security and Control	
	Finding 11 – Malware protection for MTA’s computers was not sufficient to provide the MTA with adequate assurance that its computers were properly protected.	25
	Audit Scope, Objectives, and Methodology	27
	Agency Response	Appendix

* Denotes item repeated in full or part from preceding audit report

Background Information

Agency Responsibilities

The Maryland Transit Administration (MTA), a transportation business unit of the Maryland Department of Transportation, 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 service. MTA is headquartered in Baltimore City and maintains a workforce of approximately 3,400 employees. According to State records, during fiscal year 2017, MTA's operating and capital expenditures totaled approximately \$1.42 billion. These expenditures were funded by special funds totaling approximately \$1.06 billion and federal funds totaling approximately \$360 million.

Outstanding Request for Attorney General Opinion on State Excise Taxes

In our preceding audit report, we commented that there appeared to be conflicting legal advice regarding MTA's exemption from paying State excise taxes to the Comptroller of Maryland for fuel used in Mobility Paratransit Program (MPP) service vehicles. In our audit report, we noted that, in February 2013, the Comptroller's legal counsel advised MTA that its MPP service did not qualify for an exemption and refund under the Tax-General Article of the Annotated Code of Maryland since the MPP service did not operate on regular fixed schedules and routes, which was one of the criteria for exemption. Our report also noted, however, that, according to the Transportation Article of the Annotated Code of Maryland, with the exception of water and sewer charges imposed by the State or any of its agencies or political subdivisions, MTA (including its activities and the property it owns or controls) is exempt from all taxes, assessments, and charges, whether State or local. We brought this law to the attention of MTA's legal counsel in June 2014 and, in February 2015, MTA requested a formal opinion from the Office of the Attorney General to resolve the issue. As of May 2018, no formal opinion had been issued and the issue remained unresolved.

According to its records, MTA purchased 2.7 million gallons of fuel for MPP vehicles during fiscal year 2015 and paid approximately \$765,000 in State excise taxes during that year alone. MTA also paid State excise taxes during fiscal years 2016, 2017, and 2018; however, the amount of taxes paid was not readily available.

Red Line

The Baltimore Red Line was a proposed 14.1 mile east-west light rail transit line connecting Woodlawn in Baltimore County to Johns Hopkins Bayview Medical Center, traveling through west and downtown Baltimore. On June 24, 2011, the Federal Transit Administration (FTA) approved the project for the preliminary engineering phase and, in August 2013, MTA commenced advancement of the project to the final design phase. The project was expected to cost approximately \$3 billion with construction beginning in 2015. Sources of funding were to include the State's Transportation Trust Fund (TTF), federal funds, public-private partnership funds, and local government funds.

On June 25, 2015, the Governor discontinued the Red Line project, citing the required construction of a \$1 billion tunnel through the heart of Baltimore City and the design's failure to integrate effectively with Baltimore City's existing infrastructure. MTA advised the FTA in August 2015 that the project was discontinued; the project's design phase was about 70 to 75 percent complete at that time. According to MTA's records, project expenditures totaled approximately \$296 million as of June 30, 2017, consisting of \$219 million from the TTF and \$77 million in federal funds. MTA management advised that the federal funding did not have to be repaid since the funds were used for their intended purposes.

Purple Line

The Purple Line is a 16.2 mile, 21-station light rail line currently under construction. In November 2013, the Board of Public Works (BPW) designated the Purple Line project as a public-private partnership (P3) and, in April 2016, MTA obtained approval from BPW to enter into a P3 agreement with a consortium consisting of three private equity vendors to serve as the concessionaire for the Purple Line. The concessionaire is responsible for designing, constructing, partially financing, operating, and maintaining the Purple Line over a 36-year term. As of October 2017, the projected opening date for the Purple Line was March 2022.

As of October 2017, the projected construction cost of the Purple Line project, which includes purchasing light rail vehicles for the line, and property acquisitions and related relocation costs, was approximately \$2.57 billion (net present value). MTA is using a combination of private funds (\$1.015 billion from the concessionaire), federal funds (\$936 million), and State and local funding (\$623.6 million) for the project. The funding provided by the concessionaire includes \$140 million in private equity and \$875 million as a loan through the

federal Transportation Infrastructure Finance and Innovation Act, which provides credit assistance for qualified projects of regional or national significance.

According to the agreement, MTA makes monthly progress payments to the concessionaire during the 6-year design-build period, not-to-exceed \$990 million. These payments began in June 2016 for the cost of design-related work. The concessionaire agreement also requires MTA to make monthly availability payments (averaging \$154 million annually) over the 30-year operating period.

These availability payments, which vary based on the service level provided, are intended to cover repayment of the concessionaire’s initial financing (including debt service and a return on equity investment), operating and maintenance costs

Purple Line Expenditures As of July 2017	
Category	Expenditures
Concessionaire	\$243.4 million
Right-of-Way	79.5 million
Project Management Consultant	32.9 million
General Engineering Consultant	10.1 million
Miscellaneous	14 million
Total (rounded)	\$380 million
Source: State accounting records	

(including insurance), and lifecycle costs (such as track replacement). MTA is allowed to deduct up to 100 percent of the operating, maintenance, and capital portions of the concessionaire’s availability payments for poor performance. As of July 2017, MTA’s expenditures related to the Purple Line totaled approximately \$380 million as depicted in the table.

MDOT, in consultation with the Capital Debt Affordability Committee and the Office of the Attorney General, determined that the payment structure of the concessionaire agreement exhibited the same characteristics as non-tax debt and, therefore, would have no impact on the State’s debt affordability measures.

Status of Findings From Preceding Audit Reports

Our audit included a review to determine the status of the nine findings contained in our preceding audit report dated February 13, 2015. We determined that MTA satisfactorily addressed seven of these findings. The remaining two findings are repeated in this report.

Our audit also included a review to determine the status of the five findings that were contained in our February 3, 2015 special report on MTA’s Interagency Agreements with a State University. We determined that MTA satisfactorily

addressed three of these findings. The remaining two findings are repeated in this report.

Findings and Recommendations

Contract Procurement and Monitoring

Finding 1

The Maryland Transit Administration (MTA) used certain contracts as a means to obtain services that were outside the scope of those contracts, thereby circumventing competitive procurement requirements, and related task orders lacked details of contract deliverables. In addition, increases in hourly rates charged under these task orders were excessive based on MTA guidelines.

Analysis

MTA used existing contracts to obtain services that were outside the scope of those contracts, thereby circumventing competitive procurement requirements. In addition, certain of these task orders lacked details of contract deliverables, and hourly rate increases were excessive based on MTA guidelines for such contracts. Approximately \$590,000 was paid for these services under the three contracts in question. We identified these deficiencies as a result of referrals to our fraud, waste, and abuse hotline. Additional contract procurement and monitoring deficiencies and certain questionable activities were identified as a result of other referrals to our fraud, waste, and abuse hotline. The results of a separate special review of these allegations will be reported in the near future.

Labor Negotiation Consulting Services

MTA used a management services contract to obtain labor negotiations consulting services totaling \$257,000 that were unrelated to the scope of the contract, circumventing procurement regulations, and unnecessarily incurred additional management fees totaling approximately \$14,000. In addition, the task order used for these consulting services lacked specific deliverables, and certain hourly rates paid were excessive based on MTA guidelines. Finally, the selection of the consultant based on the consultant's lack of documented experience appears questionable.

In July 2015, MTA procured the services of a labor negotiations consultant for a period of 90 days in an amount not to exceed \$25,000, and then extended the contract through December 2015 for a total amount not to exceed \$50,000. MTA's subsequent request to extend these services beyond December 2015 was not approved by the Office of the Attorney General (OAG) which concluded that it appeared there was a continuing need for these services and that a competitive procurement should be pursued. The original contract was awarded as a sole source procurement under provisions of State procurement regulations which

provide that, with the prior written approval of the OAG, an agency may enter into a sole source contract to retain confidential services of a contractor to represent the interests of the State in connection with collective bargaining. The regulations also state that if an agency can reasonably anticipate a continuing need for the services, a competitive procurement must be pursued.

Rather than conduct a competitive procurement after the contract's conclusion in December 2015, MTA included these labor negotiations consulting services, with the same consultant, as a task order under a separate contract for unrelated management services. In addition, the task order lacked specific deliverables for monitoring the services provided, and the hourly rate for these services increased 31 percent from the original July 2015 contract. According to MTA's *Price Proposal Guidelines for Cost Reimbursement Contracts*, salary increases of up to five percent a year are considered reasonable.

Furthermore, the documentation related to the selection of the consultant included only an indication that MTA had identified an individual with the requisite skills; however, the individual's resume did not reference any experience in labor negotiations. According to MTA's records, approximately \$271,000 was paid under the aforementioned task order. Of this total, \$257,000 was paid to the consultant, and the prime contractor of the unrelated management services contract received a project management fee totaling approximately \$14,000, even though this contractor performed no substantial oversight of services performed by the consultant. The labor negotiations consulting task order was discontinued in June 2017.

Employment of Support Staff

MTA improperly used two consecutive task orders under different architectural and engineering contracts to hire an individual to perform unrelated duties, such as general accounting, budget, and payroll related tasks during the period from August 2014 through August 2017. These services were not consistent with the scope of the architectural and engineering contracts which provided support services related to capital improvement plans and consulting services for major capital projects. The task orders were awarded by the two prime contractors to approved subcontractors, which, in turn, hired this individual at the direction of MTA. The subcontractors' only involvement was to invoice the prime contractor for the individual's services, which then invoiced MTA for the services provided, and to reimburse the individual for the hours worked.

These services appeared to be procured in this manner to circumvent competitive procurement requirements provided for in State procurement regulations, or to avoid using or seeking additional budgeted positions as necessary. Payments for

these two task orders totaled approximately \$319,000 through May 2017, including \$129,000 in direct labor payments and \$190,000 in fixed fee and overhead payments to the subcontractors.

The first task order covered the period from August 2014 to August 2016. When that task order expired, the individual's services were moved to a new task order under a different contract and subcontractor for the period from August 2016 through August 2017. During the three-year period covered by the two task orders, the individual's hourly rate increased by approximately 30 percent, which was inconsistent with the aforementioned MTA *Price Proposal Guidelines for Cost Reimbursement Contracts* that stipulate that salary increases of up to five percent a year are considered reasonable.

Recommendation 1

We recommend that MTA

- a. discontinue the practice of using existing contracts to circumvent required competitive procurement processes or to avoid using or requesting budgeted positions as necessary,**
- b. ensure that task orders specify required deliverables that can be used for monitoring the services provided,**
- c. ensure that hourly rate increases are consistent with the aforementioned MTA guidelines, and**
- d. ensure that adequate documentation exists to support the selection of individuals who will provide consulting services.**

Finding 2

MTA did not always adhere to State procurement regulations with respect to sole source procurements, contract award requirements, and bid documentation, and certain monitoring efforts were not adequate.

Analysis

MTA did not always adhere to State regulations with regard to sole source procurements, bid receipt and opening procedures, and contract award publication requirements. Certain procurements were not consolidated to maximize purchasing power, and a significant service contract was not adequately monitored.

Documentation Justifying Sole Source Procurements Was Inadequate

Sole source procurements were not always appropriately justified. Our test of 23 sole source procurements totaling \$13.4 million disclosed that, for 10 procurements valued at approximately \$2 million, MTA lacked sufficient

evidence to support the use of the sole source procurement method. For 6 procurements valued at \$394,000 that were awarded to the same vendor, MTA advised us that several vendors were contacted during the procurement process, but no vendors, other than the winning vendor, could meet the required specifications. However, MTA could not provide documentation that other vendors were contacted. For the other 4 procurements totaling \$1.6 million made from two vendors, MTA could not provide appropriate documentation to support the assertion that there was only one authorized vendor for the products purchased (for example, bus transmissions).

State procurement regulations provide that a sole source procurement is not permissible unless the goods or services are available from only a single vendor, and require that written justifications be prepared and approved prior to contract awards.

Bid Documentation for Certain Contracts Was Deficient and Contract Awards Were Not Routinely Published on *eMaryland Marketplace*

Our test of five contract procurements totaling \$206.8 million disclosed that, for one contract valued at \$36.8 million related to the overhaul of MTA's Maryland Rail Commuter Service fleet, there was no record of the bid opening to substantiate that the bids were opened in the presence of two employees as required. Furthermore, technical evaluations to support the award were not signed by the individual evaluators. Additionally, for this contract and one additional \$13.5 million contract, MTA could not provide any documentation to support that the bids were received by the submission deadlines.

MTA also did not routinely publish contract awards on *eMaryland Marketplace* (*eMM*) as required. MTA published 302 solicitations on *eMM* with bid opening dates during the period between December 20, 2013 and May 19, 2016. Although we could not readily determine if all 302 resulted in contract awards, we did identify 160 contract solicitations for which an award had not been published on *eMM* as of May 2017.

State regulations require bids be opened in the presence of two employees, that a record be maintained of the date of receipt of contract bids, and that contract awards greater than \$25,000 be published on *eMM* not more than 30 days after the execution and approval of the contract.

Contracts Were Not Always Established When Warranted

MTA repeatedly used corporate purchasing cards to procure bus repair services and parts from two vendors without soliciting competitive bids and entering into written contracts, as required. From December 2013 to December 2016, 1,550

payments were made to these two vendors totaling approximately \$772,000 and \$649,000, respectively. Although the individual purchases were valued at \$5,000 or less (which do not require formal competitive bids), combined purchases to these vendors significantly exceeded these levels, and MTA's leverage as a high-volume purchaser may not have been maximized.

Monitoring Efforts for a Cleaning Contract Were Insufficient

MTA did not adequately monitor the contractor responsible for cleaning MTA's light rail vehicles (LRV). MTA procured a labor-hour contract, effective in May 2013, for the cleaning of LRVs. The total value of the contract, which expired in September 2016, was approximately \$6.1 million, which was paid in full. Under the terms of the contract, the contractor was required to clean 46 LRV's on a daily basis, provide a specific level of staffing each day, and provide a daily checklist of work completed. The contract further stated that invoicing would only be accepted for actual work performed. However, our review disclosed that MTA did not ensure that the contractor submitted the required documentation of hours worked and tasks completed, and did not make payments based on actual labor hours provided, as required. Rather, MTA treated the contract as a fixed-price contract and paid the same monthly fixed fee of \$154,177 regardless of the number of hours worked, staffing levels provided, or the number of LRVs cleaned.

Similar conditions relating to documenting sole source procurement justifications, the receipt and processing of bids, and publishing contracts on *eMM* were commented upon in our preceding audit report.

Recommendation 2

We recommend that MTA comply with State procurement regulations.

Specifically, we recommend that MTA

- a. use the sole source procurement method only when a single vendor can meet the requirements, and adequately document this justification (repeat);**
- b. maintain adequate procurement documentation for bids, including the date the bids were received (repeat), support that bids were opened by at least two employees, and the corresponding signed technical evaluations;**
- c. publish contracts on *eMM* as required (repeat);**
- d. consolidate procurements of similar goods to maximize buying power; and**
- e. monitor contracts to ensure that the required documentation of hours worked and tasks completed is received and that payments are made only for hours actually provided in accordance with contract terms.**

Finding 3**Proper internal controls were not established over the processing of purchasing and disbursement transactions.****Analysis**

The security features available on the State's Financial Management Information System (FMIS) were not fully used by MTA to establish proper internal controls over certain purchasing and disbursement transactions. Specifically, MTA had not established adequate electronic approval paths over all critical purchasing and disbursement transactions for 18 of its 25 departments.

Consequently, six employees could process critical transactions in departments with inadequate or no approval paths. Specifically, five employees could initiate and approve purchase orders and one employee could initiate and approve disbursements in multiple departments, without independent approval. MTA did not have any manual reviews over these critical transactions.

Although our testing did not disclose any improper disbursements, unauthorized transactions could be processed, which may not be readily detected. During fiscal year 2016, MTA used FMIS to process disbursements totaling approximately \$857.5 million. A similar condition was commented upon in our preceding audit report.

Recommendation 3**We recommend that MTA fully use available FMIS security controls by establishing independent electronic approval requirements for all critical purchasing and disbursement transactions (repeat).****Interagency Agreements****Background**

Interagency agreements are used by State agencies to obtain services, such as technical assistance, from State agencies, including institutions of higher education. Interagency agreements are exempt from State procurement laws, including the requirements for competitive procurement, publication of solicitation and awards, and Board of Public Works' approval.

MTA's Office of Training and Development entered into interagency agreements with three higher education institutions, two of which were community colleges, to provide training courses and related services. Payments under these three agreements for fiscal years 2013 to 2017 totaled approximately \$7.1 million,

including fiscal year 2017 payments totaling \$1.3 million. The three agreements, which were renewed annually, provided for the institutions to develop and deliver training to MTA personnel. The agreements varied in scope and duration and covered a wide range of training topics, including computer skills, customer service training, first responders training, and bus operator mentoring. Task orders were to be prepared that further detailed the work to be performed and related deliverables.

State budget law places requirements on State agencies to report certain interagency agreement activity to the State's Department of Budget and Management (DBM) for its review and reporting to the General Assembly's budget committees. DBM's written instructions to the agencies for reporting such activity stipulate that agreements with certain types of higher education institutions, such as the two aforementioned community colleges, are not subject to the reporting requirements. Accordingly, there was no DBM review performed of the agreements with these two colleges, which received \$2.2 million in payments during the aforementioned period.

In February 2015, we issued a report on our special review of MTA's interagency agreements with a State university. That report included several findings relating to MTA's use and monitoring of those agreements. Our current review of MTA's interagency agreements disclosed the following conditions:

Finding 4
MTA used interagency agreements primarily to circumvent State procurement regulations that require competitive bidding.

MTA used the interagency agreements with two of the higher education institutions (including one community college) to circumvent State procurement regulations, which require a competitive procurement process. The primary purpose of the interagency agreements was for these institutions to provide training programs to MTA personnel. However, MTA directed both institutions to enter into agreements with a private vendor to provide services that were outside the scope of the interagency agreements. Specifically, the vendor, which specialized in training program evaluation services, was directed to determine the effectiveness of the various training courses provided to MTA employees.

The management of both institutions advised us that MTA directed them to the specific vendor to be contracted for the services, and that the agreements with the vendor were obtained without obtaining competitive bids. MTA management confirmed that these services were not competitively procured, and that MTA wanted to ensure that the aforementioned vendor provided the services. Our

review also disclosed that the institutions had minimal involvement in the work performed by the vendor, other than to pay the vendor and bill MTA. We were advised that the institutions' billings to MTA included administrative fees that ranged between 25 percent and 51 percent, with an accumulated cost for these fees of approximately \$529,000 over the term of the agreement.

MTA's control of the selection, work duties, and oversight of the vendor raises questions as to the propriety of MTA's use of the 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 cost to the State. A similar condition was commented upon in our report on the aforementioned special review of MTA's interagency agreements with a State university. According to MTA's records, expenditures related to the task orders for the aforementioned vendor services, which began in fiscal year 2012, totaled approximately \$1.8 million through fiscal year 2017.

Recommendation 4

We recommend that MTA discontinue its practice of using interagency agreements to circumvent State procurement regulations (repeat).

Finding 5

MTA did not follow up on the results of a review conducted by its Office of Audits regarding payments made to and deliverables required from a State university under an interagency agreement. The review disclosed, for example, approximately \$725,000 in payments that should be recovered.

Analysis

MTA did not follow up on the results of a review conducted by its Office of Audits regarding payments made to and deliverables required from a division within a State university, relating to an interagency agreement for employment services. In response to the recommendations made in our February 2015 report of MTA's interagency agreements with the university, the MTA's Office of Audits reviewed payments totaling approximately \$10.7 million made to the division during fiscal years 2010 through 2013. The objectives of the Office's review were to determine if amounts billed were in accordance with the terms of the agreement and the related task orders, and to determine if all required deliverables were provided based on supporting documentation.

The Office's review disclosed that approximately \$725,000 in payments were duplicate payments, overpayments, or payments not specified in the agreement, and should be recovered. For example, the report identified nine invoices that

included a 10 percent administrative fee that was not provided for in the related agreement. The administrative fee component for these nine invoices totaled \$416,000.

The Office of Audits' review also noted that MTA was unable to verify that deliverables related to approximately \$6.5 million in billings were actually received. For example, the Office's report identified approximately \$5.7 million in payments made to the university's division during fiscal years 2010 through 2013 related to the employment services agreement that did not include documentation (such as quarterly progress reports detailing the employees' activities) to support the billings.

MTA's Office of Audits completed its review on June 3, 2016, and its findings were communicated to MTA management in March 2017. However, as of July 2017, MTA had not taken any action to pursue recovery of these funds. We were advised by MTA management that it agreed with the findings but, as a result of changes in personnel, no one was assigned to review or follow up on the findings.

Recommendation 5

We recommend that MTA

- a. follow up on the results of the review conducted by its Office of Audits and determine what actions should be taken in consultation with legal counsel; and**
- b. pursue recovery of the aforementioned amounts, as deemed appropriate.**

Finding 6

Interagency agreements were not adequately monitored. Task orders were not sufficiently detailed to allow for adequate monitoring by MTA, and certain payments were not consistent with or were not provided for in the related task orders.

Analysis

Interagency agreements were not adequately monitored. Task orders did not provide sufficient detail to allow for adequate monitoring by MTA, and certain payments were not consistent with or were not provided for in the related task orders. Our review of 12 disbursements totaling \$225,000 made during fiscal year 2017 relating to 9 task orders under the agreements with the 3 aforementioned higher education institutions disclosed the following conditions related to 6 task orders. Fiscal year 2017 payments related to the 9 task orders totaled approximately \$1.3 million.

- Four task orders valued at \$755,000 lacked a comprehensive description of the scope of work to be performed, which precluded effective monitoring. Specifically, two task orders under one of the agreements required the institution to provide personnel for development, support, and maintenance functions related to MTA’s continuing education tracking database. Although the task orders specified the individuals’ hourly rates, there was no scope of work outlining the specific services to be performed, nor were there deliverables that could be used to ensure the work was performed. In addition, the two other task orders, which were for training courses, lacked critical details such as instructor billing rates, the specific number of courses to be taught, and the course subject area. For example, one institution was to provide a full-time instructor at an annual cost of \$128,400 to conduct classroom training, but the task order did not specify the number of courses to be taught or the subject matter the courses were to cover.
- Six of the 12 disbursements totaling \$57,000 included \$53,000 in charges that were not authorized in the related task orders, or were not adequately supported. For example, one \$30,000 invoice for various customer service training courses included a charge of \$10,100 for a project manager’s monthly salary which was not provided for in the task order, and there was no documentation provided to support a \$2,700 charge for printing and catering costs. Furthermore, the invoice charged different rates for two instructors teaching the same courses, with rates billed of \$161 and \$247 per hour. While we were advised by the institution that the rates depended on the instructor’s experience level, the task order did not specify the instructor rates nor provide for different rates based upon the instructor’s experience.

Similar conditions related to the lack of effective monitoring of agreements and verification of amounts billed were commented upon in our 2015 special review of MTA’s interagency agreements with a State University.

Recommendation 6

We recommend that MTA

- ensure that interagency agreements and task orders contain sufficient details to enable effective monitoring,**
- ensure amounts paid under interagency agreements are authorized in the related task orders (repeat), and**
- ensure adequate documentation is obtained to enable verification of amounts invoiced (repeat).**

Mobility Paratransit Program

Finding 7

MTA lacked adequate controls to ensure that only eligible individuals received Mobility Paratransit Program (MPP) services.

Analysis

MTA lacked adequate procedures and controls to ensure that determinations made of an individual's eligibility for MPP services were proper, and that photo identification (ID) cards necessary to use MPP services were generated only for individuals who were determined to be eligible. MTA awarded contracts to three vendors in February 2013 to provide MPP services and, as of August 2018, payments to these vendors totaled approximately \$354.6 million. Payments to these vendors during fiscal year 2017 totaled approximately \$76 million.

MTA's MPP is a federally mandated program that provides door-to-door transportation services for individuals with disabilities who are unable to ride fixed-route public transportation, such as the subway or an established bus route. Each program applicant is interviewed by an MTA eligibility specialist who is responsible for reviewing supporting documentation signed by the applicant's health care professional attesting to the disability, and for determining if the applicant is eligible. Individuals determined to be eligible are designated as unconditionally eligible (full time access to MPP), conditionally eligible (access is restricted, such as night only), or temporarily eligible (access for a specified period).

- MTA did not conduct supervisory reviews of applicants approved for unconditional eligibility to ensure that eligibility specialists had made the proper determinations. Rather, supervisory reviews were only performed for applicants determined to be temporarily or conditionally eligible, and for applicants determined to be ineligible for MPP service. The reason provided by MTA was that applicants determined to be unconditionally eligible had no reason to appeal MTA's determination. However, this approach did not consider the State's interest and the impact of potentially giving applicants undeserved eligibility. As of March 31, 2017, according to MTA's records, 21,624 of the 24,624 program participants (87 percent) were determined to be unconditionally eligible for MPP services. To ensure that eligibility determinations are valid, all determinations should be subject to supervisory review.
- Two employees with access to create new MPP clients in MTA's automated eligibility database could also generate new ID cards without independent

review and approval. In addition, MTA lacked a process to independently verify that ID cards were generated only for individuals who were determined to be eligible for MPP service. In this regard, MTA did not periodically account for ID cards as distributed to an eligible applicant, returned as unused, or remaining on hand. Under these conditions, errors or other discrepancies could occur without detection.

Recommendation 7

We recommend that MTA

- a. ensure that the supervisory review of MPP applicants includes, at least on a test basis, applicants determined to be unconditionally eligible for MPP services;**
- b. ensure that employees who have access to establish new clients on the eligibility database do not have access to generate ID cards; and**
- c. establish an independent review process to ensure that all ID cards are properly issued and accounted for.**

Union Payroll and Pensions

Background

MTA is responsible for all aspects of its union payroll and pensions, including tracking employee pay rates and hours worked, maintaining pension and leave records, posting adjustments to the pension and payroll records, and processing weekly payments via check or direct deposit. MTA maintains collectively bargained labor agreements with each of its three labor unions, which set forth employment terms for these employees (including wages and pension benefit calculations). During calendar year 2017, union payroll and pension expenditures totaled approximately \$216.8 million, consisting of union payroll expenditures of \$177.3 million and pension expenditures of \$39.5 million. See table on the following page. MTA police officers participate in the Law Enforcement Officers' Pension System, which is administered by the Maryland State Retirement Agency.

**Union Payroll and Pension Expenditures
Calendar Year 2017**

Labor Union	Number of Employees	Expenditures
Local 1300-Bus and Rail Operators and Maintenance Employees	2,449	\$157.8 million
Local 1859-MTA Police	208	12.6 million
Local 2-Clerical Support Employees	188	6.9 million
Pensions (Local 2 & Local 1300)	2,272	39.5 million
Total	5,117	\$216.8 million
<small>Source: State accounting records</small>		

Finding 8

MTA had not established adequate controls over its union payroll and pension processes. All payroll department employees had capabilities granting them complete control over payroll transactions.

Analysis

MTA had not established adequate controls over its union payroll and pension processes. All payroll department employees had capabilities that granted them complete control over payroll and pension transactions, and supervisory reviews intended to ensure the propriety of critical transactions were not sufficient. Additionally, terminated employees were not always removed from the payroll system on a timely basis.

- All six employees in MTA’s payroll department were granted access capabilities in the automated payroll system that gave them virtually complete control over the payroll and pension processes, allowing improper or erroneous transactions to be processed without detection. Specifically, for both union payroll and pension payroll, these employees had the capability to establish employees on the payroll system, enter and change employee salaries or pension amounts, enter time and attendance information, and prepare checks and direct deposits without independent approval.

While supervisory reviews of certain critical payroll transactions (such as regular payroll payments and manual checks processed to correct errors) were performed, these reviews were conducted by two of the aforementioned six

employees and, therefore, were not independent. Furthermore, available reports of other critical transactions, such as new employees added to the payroll, were not produced for review. While our limited testing did not disclose any significant errors or irregularities, these conditions provide an environment in which MTA lacks assurance that all transactions processed are proper.

MTA advised that it is procuring a new payroll system which will have the capability of assigning security levels that will ensure proper controls for each job duty.

- On a monthly basis, MTA calculated the expected total pension payment amounts based on any changes to the pension master file made during the month. However, MTA did not compare this calculated amount to the actual pension expenditures to ensure agreement and to provide an opportunity to investigate any significant variances. Our review of monthly pension expenditures for calendar year 2016 disclosed that actual expenditures exceeded expected amounts in 11 of 12 months. MTA had not identified nor investigated these discrepancies, and MTA could not provide an explanation for these variances when we brought them to management's attention. For example, actual pension expenditures in March 2016 (\$3.2 million) exceeded the expected amounts (\$2.8 million) by approximately \$400,000. Total pension expenditures during calendar year 2016 (\$36.1 million) exceeded MTA's expected amounts (\$34.4 million) by approximately \$1.7 million.
- Terminated union employees were not always removed from the payroll system on a timely basis, and certain employees appear to have received payments not due to them after their termination dates. Our review of union employees terminated during calendar years 2014 through 2016 disclosed that 104 of the 233 employees (45 percent) terminated during this period were not removed from MTA's payroll records for at least 1 month after their employment ended, including 24 employees who remained active in MTA's payroll records for 6 to 26 months after termination. However, our review of the 10 employees who remained on MTA's payroll system for the longest duration after termination disclosed that two employees who remained on the system for 14 and 26 months, respectively, received payments totaling \$2,795 that appeared to be erroneous. MTA could not provide an explanation or supporting documentation for these payments.

Recommendation 8

We recommend that MTA

- a. assign capabilities in its new payroll system such that employees cannot unilaterally process critical transactions, such as those mentioned above;
- b. ensure that supervisory personnel who are independent of the payroll process use available system output reports to verify the propriety of critical payroll transactions;
- c. compare its monthly calculation of expected pension payments to actual expenditures, investigate and resolve significant variances identified, and provide for independent supervisory review and approval;
- d. establish a process that ensures terminated employees are immediately removed from the payroll system; and
- e. perform a review of terminated employees, including the employees we noted in our review, to determine if employees were improperly paid after their termination date, and take appropriate action to recover any improper payments.

Cash Receipts

Finding 9

MTA did not adequately control and account for collections received at its Consignment Center and Transit Store, and bus fare collections were not always deposited timely.

Analysis

MTA did not adequately control and account for collections received at its Consignment Center and Transit Store, and bus fare collections were not always deposited timely. MTA operates a Consignment Center and Transit Store at its headquarters in Baltimore City where cash, check, and credit card payments are also accepted for various fare passes and tickets, for example. Additionally, MTA collects cash and credit card passenger fares through ticket vending machines for light rail and Metro subway, and collects bus fares through on-board fare boxes. During fiscal year 2016, Consignment Center and Transit store collections totaled approximately \$13.3 million, including \$3.8 million in credit card collections; cash collections related to the bus, light rail, and Metro subway totaled approximately \$45.8 million, including \$32.3 million in bus fare collections; and ticket vending machine credit card collections totaled \$9.1 million.

- MTA did not verify Consignment Center and Transit Store collections (including credit card receipts) from the initial record of receipt to amounts deposited in its bank account. Rather, MTA compared credit card collections

as reported by its bank against recordation in the State's accounting records. For cash and check receipts, a secondary log, prepared by the Finance Office was used in the verification process. Since the initial record of receipts was not compared to amounts deposited, there was a lack of assurance that all collections were properly deposited.

- Consignment Center check collections were not immediately restrictively endorsed upon receipt and were not adequately safeguarded. Although checks received at the Consignment Center were recorded in a tracking log immediately upon receipt, they were not restrictively endorsed at that time. Rather, checks were forwarded to a second employee and were left unsecured on that employee's desk until late afternoon, at which time they were restrictively endorsed, recorded on a secondary check log (which was subsequently used for deposit verification as noted above), prepared for deposit, and then placed in a safe awaiting pick-up.
- MTA did not deposit bus fare collections in a timely fashion. Our test of bus fare collections totaling approximately \$990,000 received on 8 days during the period from October 2015 to June 2016 disclosed that collections totaling approximately \$861,000 were deposited between 4 and 20 business days after receipt.

The Comptroller of Maryland's *Accounting Procedures Manual* requires an independent verification of collections from the initial point of recordation to deposit. In addition, agencies are required to restrictively endorse checks immediately upon receipt. The *Manual* also requires that collections totaling \$5,000 or more be deposited the first working day after receipt.

Recommendation 9

We recommend that MTA

- a. verify deposits by comparing validated deposit documentation from the bank, including for credit card receipts, to the initial record of collections;**
- b. restrictively endorse checks immediately upon receipt, and safeguarded collections while awaiting deposit; and**
- c. ensure that bus fare collections are deposited timely.**

Equipment

Finding 10

MTA did not ensure that all equipment purchases were properly recorded in its detailed equipment records.

Analysis

MTA did not ensure that all equipment purchases were properly recorded in its detailed equipment records. According to MTA's records, its equipment inventory totaled approximately \$314 million as of December 31, 2016 (excluding rolling stock such as buses and rail cars). Our test of 40 equipment items totaling approximately \$205,000 that were purchased during our audit period disclosed that 27 items totaling approximately \$150,000 (ranging in cost from \$330 to \$58,600) had not been recorded in MTA's detailed equipment records as of February 2017. These unrecorded items included sensitive equipment items such as wireless radios, cameras, and tablets, and included 11 of the 12 items tested that had been purchased with corporate purchasing cards.

The DGS *Inventory Control Manual* requires that equipment detail records be properly maintained on a current basis, and that capital and sensitive equipment be recorded in the detail records.

Recommendation 10

We recommend that MTA ensure that equipment acquisitions are properly recorded in the detailed equipment records in accordance with the Department of General Services' *Inventory Control Manual*.

Information Systems Security and Control

Finding 11

Malware protection for MTA's computers was not sufficient to provide the MTA with adequate assurance that its computers were properly protected.

Analysis

Malware protection for MTA's 2,266 computers was not sufficient to provide MTA with adequate assurance that its computers were properly protected. Using a separate management console, the Maryland Department of Transportation (MDOT) – Office of Transportation Technology Services (OTTS) managed the malware protection software installed on MTA computers. MTA maintained its computers in order to update installed operating system software and software products having ongoing security vulnerabilities.

- Our April 3, 2017 test of 10 MTA workstations and 2 servers disclosed that 2 workstations did not have any malware protection software installed and the remaining 8 workstations and 2 servers had outdated versions of the installed malware protection software. We also noted that on 3 of the 8 workstations tested (with installed malware protection software), that the malware signatures (which are used to identify malware) were at least 334 days older than the current signatures. The malware protection software vendor updates these signatures every day and should be installed immediately. Finally, users on 2 of the 10 workstations tested unnecessarily had the ability to disable the malware protection software installed on their computers.
- Four of the aforementioned 10 workstations tested had not been updated with the latest releases for software products that are known to have significant security-related vulnerabilities. Although the vendors for these software products frequently provide software patches to address these vulnerabilities, these workstations had not been updated for these patches.
- Thirty seven computers (17 servers and 20 workstations) were running outdated operating systems which were no longer supported by the operating system developer. Developer support for these computers ended by 2015 and since then updates for this software to address newly discovered vulnerabilities have not been provided.

The State of Maryland *Information Security Policy*, states that agencies, at a minimum, must protect against malicious code (viruses, worms, Trojan horses) by implementing protections (anti-virus, anti-malware) that, to the extent possible, include a capability for automatic updates.

Recommendation 11

We recommend that MTA

- a. in conjunction with MDOT – OTTS, ensure all computers have client malware protection software installed with current malware signatures, and with settings on the client malware protection software preventing users from disabling the malware protection software;**
- b. ensure all workstations are kept up-to-date for critical security-related updates to potentially vulnerable installed software; and**
- c. ensure all computers operate with current and vendor supported versions of operating system software.**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Maryland Department of Transportation – Maryland Transit Administration (MTA) for the period beginning December 16, 2013 and ending December 22, 2016. 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 MTA'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, procurement and disbursements for capital projects and operating expenditures, payroll, federal Mobility/Paratransit and Reduced Fare programs, state grants, federal funds, equipment, and information systems security. We also determined the status of the findings contained in MTA's preceding audit report. Finally, we determined the status of the findings contained in our February 3, 2015 special report on MTA's Interagency Agreements with a State University.

Our audit did not include certain payroll support services (such as processing of personnel transactions and maintenance of employee leave records) provided to MTA by the State Highway Administration, through October 2016, for its non-union management payroll. These support services are included within the scope of our audit of the State Highway Administration. Beginning in November 2016 these support services were provided by Maryland Department of Transportation – Secretary's Office, and will be included within the scope of our audit of that Office.

Our audit also did not include an evaluation of internal controls over compliance with federal laws and regulations for federal financial assistance programs and an assessment of MTA's compliance with those laws and regulations because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including MTA.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of MTA's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

We performed various data extracts of pertinent information from the State's Financial Management Information System and the Maryland Department of Transportation's Financial Management Information System (such as revenue and expenditure data) and from the contractor administering the State's Corporate Purchasing Card Program (credit card activity). 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 sources were sufficiently reliable for the purposes the data were used during this audit.

We also extracted data from MTA's union payroll and pension systems for the purpose of testing payroll and pension transactions. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

MTA'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 MTA'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 MTA that did not warrant inclusion in this report.

The response from the Maryland Department of Transportation, on behalf of MTA, 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 the Department regarding the results of our review of its response.

APPENDIX



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary

Office of the Secretary

November 20, 2018

Gregory A. Hook, CPA
Acting Legislative Auditor Manager
Office of Legislative Audits
Department of Legislative Services
301 West Preston Street, Room 1202
Baltimore MD 21201

Dear Mr. Hook:

We are providing this letter as the official agency response to the audit report comments and recommendations for the Maryland Department of Transportation Maryland Transit Administration (MDOT MTA) for the period beginning December 16, 2013 and ending December 22, 2016.

We appreciate the thorough examination of our financial transactions, records, and internal controls and evaluation of our compliance with applicable State laws, rules, and regulations professionally conducted by your staff. We have resolved many areas of concern and are actively working towards compliance with the remaining report recommendations in a manner outlined in the responses. Enclosed is our detailed agency response. Additionally, an electronic version of this document has been sent to your office via email.

If you have any additional questions or concerns, please contact Ms. Jaclyn Hartman, MDOT Chief Financial Officer, at 410-865-1035 or jhartman@mdot.state.md.us. Ms. Hartman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,

A handwritten signature in black ink that reads "Pete K. Rahn". The signature is written in a cursive style with a large initial "P".

Pete K. Rahn
Secretary

Confidential Enclosures

cc: Ms. Brenda Cachuela, Director, Office of Audits, MDOT
Mr. Glenn Davis, Chief Financial Officer, MDOT MTA
Ms. Jaclyn D. Hartman, Chief Financial Officer, Office of Finance, MDOT
Mr. Tecla Kellum, Director of Audits, MDOT MTA
Mr. James F. Ports, Jr., Deputy Secretary of Operations, MDOT
Mr. Kevin B. Quinn, Jr. Administrator, MDOT MTA

Maryland Department of Transportation
Maryland Transit Administration
Audit Responses
Period December 16, 2013 to December 22, 2016

Contract Procurement and Monitoring

Finding 1

The Maryland Transit Administration (MTA) used certain contracts as a means to obtain services that were outside the scope of those contracts, thereby circumventing competitive procurement requirements, and related task orders lacked details of contract deliverables. In addition, increases in hourly rates charged under these task orders were excessive based on MTA guidelines.

Recommendation 1

We recommend that MTA

- a. discontinue the practice of using existing contracts to circumvent required competitive procurement processes or to avoid using or requesting budgeted positions as necessary,**
- b. ensure that task orders specify required deliverables that can be used for monitoring the services provided,**
- c. ensure that hourly rate increases are consistent with the aforementioned MTA guidelines, and**
- d. ensure that adequate documentation exists to support the selection of individuals who will provide consulting services.**

Response:

- a. The MDOT MTA concurs with the recommendation. Although the original procurement and modification noted for the labor negotiation services contract was completed according to State procurement guidelines, the task order awarded at the end of the original contract was not properly reviewed and managed. The labor negotiation services contract task order was terminated on June 7, 2017. As of July 7, 2018, the support staff individual cited has been removed from the unrelated architectural and engineering contract.

The MDOT MTA has reviewed the relevant contracts to ensure that current consultant services are being provided within the scope of the respective contract. Beginning in June 2018, the MDOT MTA Office of Procurement participates on the Task Order Review Committee to help ensure that the proposed tasks are within the scope of the contract.

The process has been changed so that proposed task orders now require the Office of Procurement approval in order to be awarded. Standard operating procedures will be updated by January 31, 2019.

- b. The MDOT MTA concurs with the recommendation. The MDOT MTA will ensure that contract managers include deliverables in all Task Orders. The MDOT MTA Office of Procurement has awarded a contract to develop and execute a contract management curriculum, which will include task order development. Training is expected to begin early 2019 and curriculum materials will be maintained to conduct future contract management training. MDOT is also planning to develop and offer contract management training departmentwide during 2019 and the MDOT MTA will be able to participate. During its review of all task orders, the Task Order Review Committee will verify that task orders deliverables are included in all task orders.
- c. The MDOT MTA partially concurs with the recommendation. The referenced MTA Price Proposal Guideline limits salary escalations to 5% annually and applies during a contract's period of performance. It is not intended to be used for comparison between two different contracts. The contract noted was moved to a service contract that had a negotiated rate for labor categories that were higher than the previous contract rate.

The MDOT MTA agrees that a justification for the 30% increase is lacking. Justification of salary increases will be documented in the firm's payroll roster and submitted for approval with the monthly invoice. Approval of the invoice will also constitute approval of the payroll roster. When applicable, the justification will also include an explanation of increases over 5%. The MDOT MTA will review and pay contractors according to the negotiated rates in the new contract.

- d. The MDOT MTA concurs with the recommendation. Consultants must submit a scope of work to the project manager to be approved prior to a task order being issued. This scope includes the qualifications of the individuals to work on the task and should be coordinated with the task manager. Upon the task manager's approval, the task order, along with a justification detailing the consultant selected, will be submitted to the Task Order Review Committee for final approval.

Finding 2

MTA did not always adhere to State procurement regulations with respect to sole source procurements, contract award requirements, and bid documentation, and certain monitoring efforts were not adequate.

Recommendation 2

We recommend that MTA comply with State procurement regulations. Specifically, we recommend that MTA

- a. **use the sole source procurement method only when a single vendor can meet the requirements, and adequately document this justification (repeat);**

- b. maintain adequate procurement documentation for bids, including the date the bids were received (repeat), support that bids were opened by at least two employees, and the corresponding signed technical evaluations;**
- c. publish contracts on eMM as required (repeat);**
- d. consolidate procurements of similar goods to maximize buying power; and**
- e. monitor contracts to ensure that the required documentation of hours worked and tasks completed is received and that payments are made only for hours actually provided in accordance with contract terms.**

Response:

- a. The MDOT MTA concurs with the recommendation but not some of the findings. In the procurements cited by OLA, the MDOT MTA determined and documented that sole source procurements were justified based on the need to use the original equipment manufacturer (OEM) or their selected designee for the purchase of certain parts and services in order to maintain the safety, performance, and warranty of critical systems, or that there was only one supplier available for the product specified.
- b. The MDOT MTA concurs with the recommendation. Having recognized this issue prior to the OLA Audit, the MDOT MTA management disclosed this issue to OLA and had already taken the initiative to standardize procurement documentation and ensure compliance. Training was conducted with procurement staff personnel regarding the appropriate process and documentation requirements for procurement and contract files. A bid receipt form was created and implemented. All bids are date-and time-stamped, and the bid receipt form is a permanent record in the file. Bid openings are witnessed by two MDOT MTA employees and the signed form becomes a permanent record of the procurement file. All technical evaluations are signed by the evaluators.

For all procurements initiated on or after May 1, 2018, the appropriate process will be followed, and all documentation will be maintained in the procurement file. The Procurement File Folder Checklist was developed to assist Procurement Officers to ensure that required documentation is in the file. A Quality Assurance/Quality Control Manager position has been created and is tasked to complete a random sample of MDOT MTA procurements to verify compliance.

- c. The MDOT MTA concurs with the recommendation. Procurement officer training has emphasized the requirement to publish awards on eMM. For procurements initiated on or after May 1, 2018, a checklist has been developed and includes an acknowledgement that all awards will be published on eMM as required. A Quality Assurance/Quality Control Manager position was created and is tasked to complete a random sample of MDOT MTA procurements to verify compliance.
- d. The MDOT MTA concurs with the recommendation. The MDOT MTA recognized that prior to the OLA audit, existing parts contracts had been eliminated under previous management. MDOT MTA management disclosed this issue to OLA and had taken the

initiative to procure new parts contracts. Specifically, for the suppliers identified, the MDOT MTA currently has an Invitation For Bid (IFB) issued for bus clutch and transmission replacement parts. Further, two contracts have already been awarded for engines and engine parts, and a number of other parts contracts are in various stages of work. The MDOT MTA will continue to create contracts to leverage the market while making sure minority business enterprises and small businesses get an opportunity to participate.

- e. The MDOT MTA concurs with the auditor's recommendation. The MDOT MTA no longer pays the Light Rail Vehicles (LRV) cleaning contractor based on number of hours worked. The contract that went into effect September 2016 is based on the number of vehicles cleaned that pass inspection up to a maximum of 36 LRVs per day per the contract. Following the execution of the new contract in September 2016, the MDOT MTA Light Rail division hired a full-time employee specifically assigned to perform nightly inspections of LRVs cleaned by the vendor. The inspection process allows for the vendor to cure any deficiencies noted on the initial inspection prior to failing the LRV inspection and deducting payment. This process is documented nightly and the records are submitted to the vendor as well as stored at the Light Rail division. These records are referenced by the Light Rail staff assigned to approve monthly invoice payments.

The MDOT MTA Office of Procurement has awarded a contract to develop and execute a contract management curriculum. Training is expected to begin early 2019 and curriculum materials will be maintained to conduct future contract management training. MDOT is also developing a departmentwide contract management training curriculum which is expected to be rolled out in 2019 and the MDOT MTA can participate.

Finding 3
Proper internal controls were not established over the processing of purchasing and disbursement transactions.

Recommendation 3

We recommend that MTA fully use available FMIS security controls by establishing independent electronic approval requirements for all critical purchasing and disbursement transactions (repeat).

Response:

The MDOT MTA concurs with the recommendation and has taken appropriate measures to ensure that proper FMIS security controls are in place for all purchasing and disbursement transactions. The MDOT MTA worked with MDOT's FMIS unit to review all MDOT MTA departments for approval path deficiencies and add or enhance approval paths to meet specifications. The MDOT MTA reviewed the six employees identified as having inadequate approval paths and as of April 13, 2018, changes were made to their access and/or approval paths were updated to rectify the issues.

Interagency Agreements

Finding 4

MTA used interagency agreements primarily to circumvent State procurement regulations that require competitive bidding.

Recommendation 4

We recommend that MTA discontinue its practice of using interagency agreements to circumvent State procurement regulations (repeat).

Response:

The MDOT MTA concurs with the recommendation. Currently, the MDOT MTA does not have any active interagency agreements for educational/training services and will not utilize interagency agreements going forward. The MDOT MTA will work with the Office of Procurement to ensure any services needed from outside vendors are procured according to State Procurement Regulations and all tasks are within the scope of service.

Finding 5

MTA did not follow up on the results of a review conducted by its Office of Audits regarding payments made to and deliverables required from a State university under an interagency agreement. The review disclosed, for example, approximately \$725,000 in payments that should be recovered.

Recommendation 5

We recommend that MTA

- a. follow up on the results of the review conducted by its Office of Audits and determine what actions should be taken in consultation with legal counsel; and**
- b. pursue recovery of the aforementioned amounts, as deemed appropriate.**

Response:

- a. The MDOT MTA, after the recommended consultation with the Office of Legal Counsel and senior management of MDOT MTA and MDOT, made the decision to decline pursuit of recovery. Though we recognize supporting documentation was lacking, MDOT MTA received the work products as agreed upon from the State university and MDOT MTA maintains an ongoing working relationship with this fellow State agency.
- b. Same response as above.

Finding 6

Interagency agreements were not adequately monitored. Task orders were not sufficiently detailed to allow for adequate monitoring by MTA, and certain payments were not consistent with or were not provided for in the related task orders.

Recommendation 6

We recommend that MTA

- a. ensure that interagency agreements and task orders contain sufficient details to enable effective monitoring,**
- b. ensure amounts paid under interagency agreements are authorized in the related task orders (repeat), and**
- c. ensure adequate documentation is obtained to enable verification of amounts invoiced (repeat).**

Response:

- a. The MDOT MTA concurs with the recommendation. The MDOT MTA has ceased the use of Interagency Agreements. The Office of Training and Development has been working with the Office of Procurement to procure a contract management subject matter expert to provide training to the MDOT MTA personnel. The MDOT MTA anticipates this training to begin in early 2019. The contract management training will teach such things as: the business case, the scope of work, contract management strategy, desired end results, and management of scope compliance and/or appropriate scope changes.
- b. Same response as above.
- c. Same response as above.

Mobility Paratransit Program**Finding 7**

MTA lacked adequate controls to ensure that only eligible individuals received Mobility Paratransit Program (MPP) services.

Recommendation 7

We recommend that MTA

- a. ensure that the supervisory review of MPP applicants includes, at least on a test basis, applicants determined to be unconditionally eligible for MPP services;**
- b. ensure that employees who have access to establish new clients on the eligibility database do not have access to generate ID cards; and**
- c. establish an independent review process to ensure that all ID cards are properly issued and accounted for.**

Response:

- a. The MDOT MTA concurs with the recommendation. Unconditional determination reviews began in the fall of 2017 and continue on a quarterly basis. Over the last year training sessions have been developed around findings of the unconditional review. The file review is selected by the manager on a test basis and ensures all staff responsible for processing MPP applications are reviewed. The manager documents the review and follows-up with the Eligibility Specialist responsible for that application as needed. The analysis last measured the MTA approval rate of unconditionally eligible applicants at 87%. The rate has reduced to 78.6% as measured year to date January to October 2018.
- b. The MDOT MTA concurs with the recommendation. Former employees having access to both systems have been removed from the user lists. The Mobility Department began using pre-numbered card stock on May 1, 2018, and there is no old stock remaining. The use of pre-numbered card stock will strengthen controls over the issuance of cards and facilitate the reconciliation to card numbers in Trapeze. An exception report has been created to show when a new applicant file is created by someone other than a Customer Service Representative. All IDs printed are recorded on a daily log with the card stock number. All numbers from the pre-numbered card stock are monitored to ensure quality control. The ID card system does not have the capability to grant “read-only” access. The Eligibility Manager and Supervisor must have access to both systems to supervise these functions and reconcile the data between systems. Since May 2018, the MTA Mobility Contract Compliance Officer generates a card issue report daily from the Episuite and compares it to the eligibility determinations in Trapeze by the MTA Mobility employee for the Manager and Supervisor.
- c. The MDOT MTA concurs with the recommendations. On May 1, 2018, the Mobility Department began using pre-numbered card stock. The Eligibility Supervisor performs a reconciliation of all ID cards issued with the camera operator on a weekly basis. An exception report has been created to show when a new applicant file is created by someone other than a Customer Service Representative. All IDs printed are recorded on a daily log with the card stock number. All numbers from the pre-numbered card stock are monitored to ensure quality control. Since May 2018, the MTA Mobility Contract Compliance Officer generates a card issue report daily from the Episuite and compares it to the eligibility determinations in Trapeze by MTA Mobility employee for the Manager and Supervisor.

Union Payroll and Pensions

Finding 8

MTA had not established adequate controls over its union payroll and pension processes. All payroll department employees had capabilities granting them complete control over payroll transactions.

Recommendation 8

We recommend that MTA

- a. assign capabilities in its new payroll system such that employees cannot unilaterally process critical transactions, such as those mentioned above;**
- b. ensure that supervisory personnel who are independent of the payroll process use available system output reports to verify the propriety of critical payroll transactions;**
- c. compare its monthly calculation of expected pension payments to actual expenditures, investigate and resolve significant variances identified, and provide for independent supervisory review and approval;**
- d. establish a process that ensures terminated employees are immediately removed from the payroll system; and**
- e. perform a review of terminated employees, including the employees we noted in our review, to determine if employees were improperly paid after their termination date, and take appropriate action to recover any improper payments.**

Response:

- a. The MDOT MTA concurs with the recommendation. The MDOT MTA is currently working to replace MDOT MTA's existing payroll system with a state-of-the-art cloud-based system that will have the capability of assigning security levels that will ensure proper controls for each job duty. The new system is set to be fully operational in the first quarter of calendar year 2019.
- b. The MDOT MTA concurs with the recommendation. Effective April 2018, a weekly report has been created that details each user's access capabilities and daily transactions for review by the Payroll Manager. For any adjustments needed, the Payroll Manager notifies the IT Department to take the appropriate action. The Payroll Manager signs the weekly report and notes that all changes have been corrected.
- c. The MDOT MTA concurs with the recommendation. The current procedure has been modified as of March 1, 2018, to ensure that all modifications to the pension master file are independently reviewed by Payroll and all variances between the expected pension payments and actual payments are resolved. The monthly changes are determined by the Human Resources Benefits Section and are entered into the payroll system by Human Resources. Payroll enters the changes in the tracking sheet and deducts or adds to the previous month's balance to arrive at an expected expenditure. Payroll will compare the expected payments to actual payments and review with the Benefits Section to ensure appropriate action is taken for resolution and balancing.
- d. The MDOT MTA concurs with the recommendation. The new payroll system will have the capability of processing the termination electronically with the proper security levels to ensure that the individual is removed timely. The new system is set to be fully operational in the first quarter of calendar year 2019. In the meantime, as of May 23, 2018, a weekly report is generated that lists all employees in a no pay status for review and appropriate action to ensure inactive employees are not receiving pay. Follow-up calls are made to area managers to determine if they are no longer with the MDOT MTA or are out of service.
- e. The MDOT MTA concurs with the recommendation. The MDOT MTA has initiated a review of terminated employees beginning April 1, 2018, to determine if employees were

paid after their termination date and take appropriate corrective action to recover any improper payments, including the improper payments identified in the auditor's examination. The report noted in item (d) will be used, along with confirmation from the supervisor, to determine whether there are overpayments and make the necessary corrections and recoveries.

Cash Receipts

Finding 9

MTA did not adequately control and account for collections received at its Consignment Center and Transit Store, and bus fare collections were not always deposited timely.

Recommendation 9

We recommend that MTA

- a. verify deposits by comparing validated deposit documentation from the bank, including for credit card receipts, to the initial record of collections;**
- b. restrictively endorse checks immediately upon receipt, and safeguarded collections while awaiting deposit; and**
- c. ensure that bus fare collections are deposited timely.**

Response:

- a. The MDOT MTA concurs with the recommendation. The initial record of collections from the Consignment Center is verified by the independent employee in Treasury and signed off on as verified. To ensure proper verification, the Accounts Receivable Specialist in Accounting will provide a copy of the daily bank deposit slip to attach to the initial record for supporting documentation. The Accounts Receivable Specialist in Accounting will verify the deposit to the monthly bank statement and sign off as verified.
- b. The MDOT MTA concurs with the recommendation. Transit store cashiers and others receiving payments are instructed to restrictively endorse all checks immediately upon receipt. Collections required to be processed by a second employee will be held and controlled in a secured area until ready to be processed for deposit. Cash handling procedures will be updated by December 31, 2018 to reflect this requirement.
- c. The MDOT MTA concurs with the recommendation and has taken appropriate measures to clear the backlog of receipts observed during the auditor's examination. The appropriate measures include adding staff, establishing volume standards, and coordinating collection/delivery timing to additional staffing, establishing production volume standards for sorting, coordinated collection/delivery timing to ensure deposits are made the next business day after receipt at the counting facility. Additional resources were brought in to support catching up on the daily deposits. Since July 3, 2016, receipts have been counted the day received at the revenue control center and deposited the next business day. The deposit timing is monitored to identify any delays so appropriate action can be taken. Treasury Administration tracks the Daily Cash Deposit summary sheet to ensure compliance.

Equipment

Finding 10

MTA did not ensure that all equipment purchases were properly recorded in its detailed equipment records.

Recommendation 10

We recommend that MTA ensure that equipment acquisitions are properly recorded in the detailed equipment records in accordance with the Department of General Services' *Inventory Control Manual*.

Response:

The MDOT MTA concurs with the recommendation. As of July 2018, the Accounts Payable Specialists have been trained and all fixed asset invoices are now being provided to the Fixed Assets Department for proper recording into FMIS timely. The items identified as not recorded, have also been entered into FMIS. A process has been initiated where the Accounts Payable Specialists will identify in FMIS when a fixed asset is purchased at the time of processing the invoice. This process will capture the fixed asset in FMIS in screen 73A, entitled "Fixed Asset Property Record Suspense", for the Fixed Asset Section to enter final information needed to initiate the tagging and final recording of the asset.

Information Systems Security and Control

Finding 11

Malware protection for MTA's computers was not sufficient to provide the MTA with adequate assurance that its computers were properly protected.

Recommendation 11

We recommend that MTA

- a. in conjunction with MDOT – OTTS, ensure all computers have client malware protection software installed with current malware signatures, and with settings on the client malware protection software preventing users from disabling the malware protection software;**
- b. ensure all workstations are kept up-to-date for critical security-related updates to potentially vulnerable installed software; and**
- c. ensure all computers operate with current and vendor supported versions of operating system software.**

Response:

- a. The MDOT MTA concurs with the recommendation. Since February 2018, MDOT's Office of Transportation Technology Services (OTTS) generates a weekly report of outdated**

workstations that is being reviewed by the MDOT MTA IT Department. The MDOT MTA System Administrators are coordinating with MDOT OTTS and end-users to update all outdated workstations with current malware software including current signatures and ensure malware protection software cannot be disabled.

- b. The MDOT MTA partially concurs with the recommendation. The MDOT MTA utilizes legacy software that supports multiple business-critical applications; therefore, the MDOT MTA is working diligently to ensure all machines are up-to-date without detrimentally affecting the operating environment. Updates and update verifications for our computers' operating system software occur on a nightly basis as a scheduled task.
- c. The MDOT MTA concurs with the recommendation. Since the conclusion of the audit, the number of outdated machines has been reduced and the MDOT MTA will continue to remove identified outdated systems moving forward. All of the systems noted that remain on the network that run unsupported software are currently engaged in large-scale procurements to be replaced between 2019 and 2020.

AUDIT TEAM

William R. Smith, CPA
Audit Manager

Richard L. Carter, CISA
Information Systems Audit Manager

Edward A. Rubenstein, CPA
Robert A. Wells, Jr., CPA
Senior Auditors

Matthew D. Walbert, CISA
Information Systems Senior Auditor

Thea A. Chimento
Marc E. Merius
Daniel P. Nuccio, CPA, CFE
Larry M. Richardson
Tu N. Vuong
John B. Wachter, CFE
Staff Auditors