

Audit Report

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**Office of Administrative Hearings**

February 2019

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**OFFICE OF LEGISLATIVE AUDITS**  
DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND GENERAL ASSEMBLY

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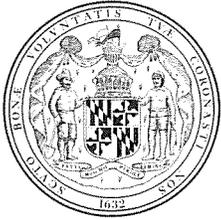
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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber  
Executive Director

Gregory A. Hook, CPA  
Legislative Auditor

February 11, 2019

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee  
Delegate Shelly L. Hettleman, Co-Chair, Joint Audit Committee  
Members of Joint Audit Committee  
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Office of Administrative Hearings (OAH) for the period beginning August 4, 2014 and ending July 2, 2018. OAH was established to provide an unbiased and objective forum for contested cases involving State agencies that regulate certain actions of businesses and citizens.

Our audit disclosed that OAH did not have adequate controls over court fees and other collections received in the mail, which totaled approximately \$2.3 million during fiscal year 2018. For example, collections were not recorded immediately upon receipt to establish accountability over the funds. In addition, collections were not reconciled to deposit records by an employee independent of the related collections.

Our audit also included a review to determine the status of the finding contained in our preceding audit report. We determined that OAH satisfactorily addressed this finding.

OAH's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the audit by OAH and its willingness to address the audit issues and to implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook".

Gregory A. Hook, CPA  
Legislative Auditor



## **Background Information**

### **Agency Responsibilities**

The Office of Administrative Hearings (OAH) was established to provide an unbiased and objective forum for contested cases involving State agencies that regulate certain actions of businesses and citizens. According to OAH's records, during fiscal year 2018, OAH disposed of 41,514 cases. The majority of cases heard by OAH relate to the Motor Vehicle Administration, the Maryland Department of Health, and the Department of Human Services. OAH's fiscal year 2018 appropriation provided for 118.5 employee positions, including 52 administrative law judges. According to the State's records, during fiscal year 2018, OAH's expenditures totaled approximately \$15 million.

### **Status of Finding From Preceding Audit Report**

Our audit included a review to determine the status of the finding contained in our preceding audit report dated December 3, 2014. We determined that OAH satisfactorily addressed this finding.

## **Findings and Recommendations**

### **Court Fees and Other Collections**

#### **Finding 1**

**OAH did not have adequate controls over court fees and other collections received in the mail, which totaled approximately \$2.3 million during fiscal year 2018.**

#### **Analysis**

OAH lacked adequate controls over court fees and other collections received in the mail, which totaled approximately \$2.3 million during fiscal year 2018, according to State records. As a result, collections could be misappropriated without detection. Our review of the procedures and controls over these collections disclosed the following conditions:

- Checks received in the mail were not recorded immediately upon receipt. Instead, the checks were forwarded to another employee before being recorded. In addition, the transfer to the second employee was not documented to establish accountability over the funds.

- Six OAH employees with access to collections could waive the related court fees on the automated system, which included the record of fees owed, without any independent review and approval. In addition, three of these employees could also process voids without any independent review and approval. OAH was also not able to readily identify waived or voided transactions to enable a comprehensive review.
- Cash receipts were not verified to deposit by an independent employee. Rather, the employee who performed this function also had access to collections.

The Comptroller of Maryland's *Accounting Procedures Manual* requires that checks be recorded immediately upon receipt, and requires supervisory review and approval of voided transactions and adjustments to cash receipts records. The *Manual* further requires that a reconciliation of the initial record of all collections to the amount deposited be performed by an employee independent of the cash receipts function.

#### **Recommendation 1**

**We recommend that OAH**

- record all collections immediately upon receipt,**
- document the transfer of collections between employees,**
- develop output reports of waivers of court fees and voids and ensure they are subject to supervisory review and approval by an employee independent of the related collections, and**
- ensure that deposit verifications are performed by an employee who does not have access to collections.**

**We advised OAH on accomplishing the necessary separation of duties using existing personnel.**

## **Audit Scope, Objectives, and Methodology**

We have conducted a fiscal compliance audit of the Office of Administrative Hearings (OAH) for the period beginning August 4, 2014 and ending July 2, 2018. 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 OAH'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 procurements, disbursements, cash receipts, case management (including review of fee cases), and payroll. We also determined the status of the finding contained in our preceding audit report.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of OAH'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 also performed various data extracts of pertinent information from the State's Financial Management Information System (such as expenditure data) and the State's Central Payroll Bureau (payroll data), as well as 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 OAH's caseload system for the purpose of planning and testing. 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.

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

OAH's response to our finding and recommendation 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 OAH regarding the results of our review of its response.

## APPENDIX

LAWRENCE J. HOGAN, JR.  
GOVERNOR

BOYD K. RUTHERFORD  
LT. GOVERNOR



THOMAS E. DEWBERRY  
CHIEF ADMINISTRATIVE LAW JUDGE

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February 6, 2019

Gregory A. Hook, CPA, Legislative Auditor  
Office of Legislative Audits  
State Office Building, Room 1202  
301 West Preston Street  
Baltimore, Maryland 21201

RE: Audit of the Office of Administrative Hearings (OAH)  
Period of Audit: August 4, 2014 to July 2, 2018

Dear Mr. Hook:

Enclosed is OAH's response to the finding enumerated in the recent legislative audit of the OAH:

#### Finding 1

**OAH concurs with the audit recommendation. OAH immediately instituted a policy to record all collections upon receipt, document the transfer of collections between employees and ensure deposit verifications are performed by an employee who does not have access to collections. In addition on November 13, 2018, OAH's case management system upgrades included report waivers and void summary reports that are used by an independent employee to verify receipt waivers and voids issued.**

If additional information is required, please advise.

Very truly yours,

A handwritten signature in black ink that reads 'Thomas E. Dewberry'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Thomas E. Dewberry  
Chief Administrative Law Judge

AUDIT TEAM

**Joshua S. Adler, CPA, CFE**  
Audit Manager

**Mindy R. Garrett**  
Senior Auditor

**Marina I. Bulatova**  
Staff Auditor