



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

**Department of General Services
Office of Procurement and
Logistics**

Report dated November 8, 2013



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Audit Overview

- The Department of General Services (DGS) – Office of Procurement and Logistics (OPL) manages the centralized procurement of certain goods and services for State agencies, manages State records and surplus property, oversees State property management and the State's Automated Fuel Management Program, and is responsible for DGS property control.

- During fiscal 2012, the value of statewide procurements awarded by OPL totaled \$563 million, and OPL's operating expenditures totaled \$7.7 million.

- The audit report contained 13 findings. Four of the findings are repeats, including one equipment finding contained in our January 6, 2011 DGS – Office of the Secretary audit report. DGS has designated OPL as the unit responsible for State agency property oversight. **(Findings 5, 8, 11, and 13 are repeated from last audit.)**



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Key Audit Issues

- OPL could not demonstrate that certain procurements made on a centralized basis for State agencies represented the best value.
 - State fuel contract valued at \$305 million
 - Intergovernmental Cooperative Purchasing Agreements valued at \$41.5 million
 - Procurements through providers receiving preferences as authorized by State law

- The contract with a vendor maintaining eMaryland Marketplace (eMM) was not modified for a deliverable that was not implemented. OPL assessed eMM fees on certain contracts without authorization.

- Oversight of State agency procurements and property management need improvement.



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State Fuel Contract

Background

OPL procured a new statewide fuel contract effective August 1, 2012. The total value of the five-year contract was \$305 million and included provisions for two additional two-year extensions.

The new contract included (1) replacement of the fuel card readers and the fuel management information system; (2) maintenance of the State's fuel pumps; (3) providing motor fuel (diesel and unleaded) to the State's fuel pumps; and (4) providing bulk motor and heating fuel across the State.

Previously, the maintenance of the State's fuel pumps, including supplying motor fuel for the pumps, was provided by one vendor. The bulk motor and heating fuel services were provided by 7 vendors under 13 contracts based on the type of fuel and the geographic region.



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State Fuel Contract (Cont.)

The structure of the current fuel contract procurement may have limited competition and resulted in only one eligible bidder (**Finding 1**).

- The Request for Proposals (RFP) allowed vendors to bid on some or all of the tasks in the RFP, but indicated a preference to use one vendor.
- According to OPL, 113 vendors were notified of the solicitation, but only 7 submitted a bid, of which 4 were deemed acceptable. Only 1 vendor's bid covered all tasks, while the other 3 bid on selected tasks, which collectively did not cover all RFP tasks.
- The only option available was to select the 1 vendor that bid on all the tasks, essentially making this a single bid procurement. Given its value, we believe OPL should have considered rebidding the contract.
- OPL did not clearly advise the Board of Public Works (BPW) of the bid results. OPL used certain assumptions and combined information from the 3 losing bids to create an artificial second bid, to show the winning bid was lower.



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State Fuel Contract (Cont.)

OPL did not timely obtain certain contract deliverables and did not follow its procedures designed to ensure State agencies were billed the proper fuel rates (**Finding 2**).

Until our inquiries, OPL had not obtained from the vendor, as required by contract:

- fuel variance reports that could readily identify possible misuse of fuel purchases (including potential billing or usage irregularities); and
- proof of the required comprehensive third-party legal liability insurance from the vendor.

OPL had not provided State agency personnel with the daily motor fuel rates to enable them to verify the vendor's billings for the first 4 months of the contract. OPL also did not perform random verifications of fuel rates invoiced, as required by its policies.



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Intergovernmental Cooperative Purchasing Agreements

Background

- State law defines an Intergovernmental Cooperative Purchasing Agreement (ICPA) as a contract that is intended to promote efficiency and savings that can result from intergovernmental cooperative purchasing.
- ICPAs are procured by one or more federal, state, or local government agencies (lead entities) and consolidate the procurement of specified goods and services on behalf of multiple users (such as Maryland State agencies).
- OPL participated in 26 ICPA contracts during the period from July 1, 2009 through August 19, 2012, from which OPL issued 44 related blanket purchase orders (BPO), with a total estimated value of \$68.0 million, for use by State agencies.
- The Office of Legislative Audits (OLA) reviewed OPL's participation in 4 ICPAs for which the related BPOs had an estimated value of \$41.5 million.



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Intergovernmental Cooperative Purchasing Agreements (Cont.)

- OPL could not document that it was in the best interest of the State to participate in the four ICPAs tested, valued at \$41.5 million **(Finding 5)**.
 - OPL could not provide documentation that the ICPAs were competitively procured by the lead entities.
 - OPL either could not provide the procurement officer's written determination that the ICPA would provide cost benefits to the State, promote administrative efficiencies, or promote intergovernmental cooperation as required by State law, or when written determinations were prepared by the procurement officer, could not substantiate the cost benefit and efficiency assertions.
- OPL did not ensure that one ICPA vendor was pricing its products in accordance with the ICPA contract, resulting in certain undetected pricing discrepancies **(Finding 6)**.



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Providers with Procurement Preferences

Background

- State laws and regulations provide for procurement preferences to benefit disadvantaged individuals or representative organizations.
- When goods or services can be supplied at prices that do not exceed the prevailing market prices, State aided or controlled entities shall give procurement preferences to entities such as Maryland Correctional Enterprises (MCE) and Blind Industry and Services of Maryland (BISM), and nonprofit entities serving disabled individuals under the Employment Works Program (EWP).



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Providers with Procurement Preferences (Cont.)

- OPL did not independently determine and publish the fair market prices of MCE goods and services and did not publish the fair market prices of BISM goods and services as required.

State agencies could be paying more than the fair market prices for these goods and services. State purchases from these entities totaled \$14.6 million in fiscal 2012 (**Finding 8**).

- OPL lacked adequate procedures and controls over the EWP. For example, OPL did not have procedures for selecting and monitoring the third party contractor that was responsible for identifying potential contracts and distributing them to nonprofit entities serving disabled individuals, which paid fees to the contractor for these services.

Based on most recent available information, these fees totaled \$881,000 in fiscal 2011. OLA estimated the associated EWP sales totaled \$27.5 million (**Finding 9**).



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eMaryland Marketplace

Background

- eMM is an Internet-based, interactive procurement system managed by OPL.
- In August 2011, OPL entered into a five-year \$3.7 million contract with a new vendor to develop, operate, and maintain a new eMM system; the contract included a provision for a five-year extension option at a cost of approximately \$2.4 million.
- eMM has the ability to handle all aspects of the procurement process including issuing solicitations, receiving vendor bids, tabulating bids, and issuing contract award notifications.



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eMaryland Marketplace (Cont.)

A planned deliverable under the eMM contract was not implemented as intended and OPL did not seek to modify the related contract price **(Finding 3)**.

- OPL did not reduce the contract price for a deliverable to develop an interface between eMM and State's accounting system (FMIS) that had not been implemented.

OPL management advised us that the task may be implemented in the future, although the contractor's technical proposal indicated that it was to be completed by October 2011. Department of Information Technology management advised us that the interface was impractical.

- OPL could not readily determine the value of the interface or the amount to recover because it did not require the vendor to provide pricing for each contract task. The contract provided for a monthly fee for all tasks of \$73,483.



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Contract Fees

OPL assessed fees on certain contracts without statutory authority, disclosing the fees to appropriate control agencies, or ensuring vendors subsequently remitted the fees (**Finding 7**).

- OPL assessed a 1% eMM fee on certain contracts that were not authorized for such fees. For example, \$242,000 of the \$580,000 in fees collected during the period from July 1, 2012 through January 31, 2013, was from the statewide fuel contract that was solicited via eMM, but not procured via eMM as specified by law.
- OPL assessed an additional \$0.01 per gallon fee on the State's fuel vendor (in addition to the eMM fee noted above), which was then included in the prices charged to State agencies and other entities purchasing fuel under the contract. The full extent of the fees was not disclosed to the Department of Budget and Management.
- OPL did not ensure that the vendors remitted all of the aforementioned contract fees.



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Statewide Procurement and Property Oversight

OPL did not exercise appropriate oversight over statewide procurement and property.

- OPL did not conduct any audits of State agencies' delegated procurement activity during fiscal 2012 and 2013 and only conducted audits of four agencies during fiscal 2011 and three agencies during fiscal 2010 (**Finding 10**).
- OPL did not adequately monitor State agency compliance with State property inventory standards and did not take corrective action when deficiencies were identified. We were advised that OPL's oversight was generally limited to following up with State agencies to address property deficiencies disclosed in OLA audit reports. However, these reviews were not always performed nor comprehensive (**Finding 12**).



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Conclusion

OPL should

- ensure that future procurements are structured to promote maximum competition and consider rebidding large value contract procurements when sufficient competition is not obtained;
- ensure that ICPAs are competitively procured and that written determinations are prepared and properly substantiated;
- take the specific recommended actions related to the preferred providers;
- seek to modify the eMM contract and adjust the related payments;
- ensure that only properly authorized fees are assessed, obtain control agency approval for those fees, and ensure that all contract fees are remitted by the vendors; and
- improve its monitoring of State agencies' delegated procurements and compliance with State property inventory standards.