

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 428
Appropriations

(Delegate Grammer)

Office of Legislative Audits - Baltimore County Public School System - Special
Audit

This bill requires the Office of Legislative Audits (OLA) to conduct a special comprehensive audit of the procurement practices and contracts of the Baltimore County Public Schools (BCPS) to determine whether there were any acts of fraud, waste, and abuse from January 1, 2012, through June 30, 2018. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: To the extent that the scope of the required audit is feasible, as discussed below, general fund expenditures increase significantly, potentially by several million dollars in FY 2019 to conduct the audit. Under one alternative methodology discussed below, OLA may be able to complete the audit of BCPS contracts with existing resources but may require contractual assistance with other aspects of the required audit in order to avoid delaying or disrupting other statutorily required audit responsibilities. No effect on revenues.

Local Effect: It is assumed that BCPS can assist with the audit using existing resources. No effect on revenues.

Small Business Effect: None.

Analysis

Bill Summary: The audit required by the bill must focus on:

- the procurement practices of the office of the Baltimore County Superintendent of Schools and the BCPS central and regional offices and departments;

- BCPS contracts that:
 - had a value of more than \$1.0 million;
 - related to education technology;
 - were made with an affiliate or a partner of a technology-related membership organization;
 - were no-bid or piggyback contracts;
 - had a value of less than \$500,000, did not require reauthorization from the Baltimore County Board of Education; and had renewals or extensions that total more than \$500,000;
 - had a length or more than five years; or
 - related to systemic digital conversion or the second language acquisition program.
- interactions between vendors and members of the BCPS administrative staff;
- interactions between vendors and the Education Foundation of BCPS; and
- compliance with ethics standards and requirements applicable to specified expenditures.

Current Law: Each local board of education must provide for an annual audit of its financial transactions and accounts. Also, the Maryland State Department of Education, at the request of a county government and in the absence of an agreement between a county government and a school board, must contract for a performance audit of a county school system. A performance audit covers an assessment of a school system’s practices to determine whether the school system or a school program is operating economically and efficiently.

Furthermore, OLA must, at least once every six years, subject to certain waivers, conduct an audit of each local school system to evaluate the effectiveness and efficiency of the financial management practices of the local school system.

OLA must provide information regarding the audit process to the local school system before the audit is conducted. The legislative auditor must review each local school system’s response to OLA’s audit and advise the local school system of the results of the review. The legislative auditor must advise the Joint Audit Committee (JAC) when a local school system:

- does not make a response to a recommendation;
- does not indicate action to be taken in response to a recommendation;
- has not taken the action the local school system indicated in its response to a recommendation; or
- responds in a manner that is not considered appropriate to carry out the recommendation.

The Executive Director of the Department of Legislative Services or JAC may direct the legislative auditor to undertake a review to determine the extent to which action has been taken by a local school system to implement a report recommendation. With respect to findings and recommendations made to a local school system, JAC may make recommendations to the Governor, State Superintendent of Schools, the local school governing board, or local school officials after reviewing a local school system's response to a recommended action.

Background: OLA completed its last financial management practices audit of BCPS in July 2015, which covered fiscal 2013 and 2014. Among other findings and recommendations, the audit found that BCPS' procurement policy did not address the selection of contractors for services valued at \$25,000 or more. It recommended that BCPS amend its existing policies to require competitive procurement methods be used for all contracts for services.

State Fiscal Effect: It is not clear if the scope of the audit required by the bill is feasible. First, the time period covered by the audit far exceeds the usual one- or two-year period covered by a financial management audit. Staff turnover and document retention policies may complicate OLA's ability to develop a complete picture of BPCS' procurement practices over the 6.5 years. Second, OLA advises that determining waste, fraud, and abuse is not typically the goal of financial management audits, which typically focus on determining whether proper controls and safeguards are in place. Third, according to OLA, BCPS has advised that the criteria for contracts that must be included in the audit encompasses 277 contracts.

Although OLA's methodology for financial management audits often involves taking a sample of contracts, it is not clear from the bill whether a sampling methodology is allowed. If not, OLA advises that the scope of the audit of contracts alone exceeds its capacity and likely results in an increase in general fund expenditures of several million dollars to either hire contractual auditors or contract with an outside accounting firm to conduct the audit. Additional audit requirements in the bill further add to the cost, but a reliable estimate is not feasible.

If OLA is allowed to use a sampling methodology to conduct the audit of contracts, it likely can complete the audit of contracts with existing resources. However, the full scope of the audit likely requires contractual support to provide expertise in areas that OLA does not have on staff and to insure that other statutorily required audit responsibilities are not disrupted or delayed. A reliable estimate is not feasible but is likely substantially less than the estimate for a full audit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Legislative Services.

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