

Audit Report

Judiciary

April 2021



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

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April 7, 2021

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Judiciary for the period beginning December 21, 2015 and ending June 9, 2019. The Judiciary, as established by the state Constitution, is responsible for the administration of justice in Maryland. The Judiciary comprises the courts and various other agencies (such as the Administrative Office of the Courts and the State Law Library) that support the administrative and regulatory functions of the Judicial Branch of government.

Our audit disclosed various issues related to contract procurement. The Judiciary did not secure contract proposals and bids prior to opening bids for evaluation. Additionally, certain documentation of the bid evaluation processes and the award decisions was not maintained for three contracts totaling \$7.3 million. Furthermore, the Judiciary did not publish the awards of eight contracts totaling \$34.6 million on *eMaryland Marketplace* as required by its policies. Also, the Judiciary did not consider the use of available Statewide contracts resulting in reduced competition and increased costs for consumers. For example, the Judiciary's credit card payment services contract for online and in-person district court transactions during our audit period charged consumers \$2.7 million more than would have been charged using an available Statewide contract.

Also, our review of a \$2.5 million master contract for information technology cable and wiring disclosed a lack of accurate and comprehensive records documenting project awards and costs, and the Judiciary did not properly award task orders and change orders, certain of which appeared questionable. The majority of the task orders were awarded to one of the nine approved vendors on the master contract.

Furthermore, the Judiciary did not perform sufficient reviews to ensure the accuracy of eligibility determinations for legal representation by a public defender. For example, the Judiciary did not develop a formal policy/definition for determining the applicant's household/family size as required by federal regulations for use in determining applicant eligibility.

We also noted that the Judiciary had not established sufficient controls over the processing of traffic citations. Additionally, the Judiciary had not established sufficient control to ensure equipment items were properly safeguarded.

Finally, our audit included a review to determine the status of the five findings contained in our preceding audit report and one finding related to eligibility for legal representation by a public defender from our preceding Office of the Public Defender audit report. We determined that the Judiciary satisfactorily addressed three of these findings. The remaining findings, related to procurement activity and equipment controls, are repeated in this report.

The Judiciary's response to this audit is included as Appendix B to this report. In accordance with State law, we have reviewed the response and, while the Judiciary generally agrees with the recommendations in this report, we identified many instances in which statements in the response conflict or disagree with the report findings. In each instance, we reviewed and reassessed our audit documentation, and reaffirmed the validity of our finding. In accordance with generally accepted government auditing standards, we have included general "auditor's comments" in Appendix A in relation to Judiciary's disagreements with the report findings. Furthermore, in relation to instances in which the Judiciary did not agree with specific audit recommendations, we have also inserted "auditor's comments" within the Judiciary's response to explain our position. We will advise the Joint Audit and Evaluation Committee of any outstanding issues that we cannot resolve with the Judiciary.

We wish to acknowledge the cooperation extended to us during the audit by the Judiciary, and its willingness to address the audit issues and implement appropriate corrective action.

Respectfully submitted,



Gregory A. Hook, CPA
Legislative Auditor

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Background Information

Agency Responsibilities

The Judiciary is established by the State Constitution as a separate branch of the government responsible for the administration of justice in Maryland. The Judiciary comprises the courts and various other judicial offices and agencies that support the administrative and regulatory functions of the Judicial Branch of government. The Maryland Judiciary includes the

- Appellate Courts, consisting of the Court of Appeals and the Court of Special Appeals;
- Circuit Courts, one of which is located in each of the State's 24 local subdivisions;
- District Courts of which there are 33 locations, with at least one in each local subdivision and which are organized into 12 geographic districts; and
- Judicial offices and agencies such as the Administrative Office of the Courts (AOC), State Law Library, State Reporter, State Board of Law Examiners, and the Client Protection Fund.

The AOC provides services supporting certain financial activities of other units of the Maryland Judiciary, including personnel administration, preparation and administration of the Judiciary's budget and related accounting records, payroll processing, and invoice payment processing. Accordingly, certain of these services provided to the 24 Offices of the Clerk of Circuit Courts (such as payroll and invoice payment processing, and maintenance of budgetary accounting and equipment records) are included in the scope of this audit. We also conduct separate audits of the fiscal activities administered by each of the Offices of the Clerk of Circuit Courts, such as the collection of funds related to court filings.

This Judiciary audit also includes a review of information controls for the financial systems supporting AOC operations; we conduct a separate audit of the Judicial Information Systems that includes controls related to the Judiciary's data center and wide area network.

The Judiciary's internal audit staff performs periodic scheduled audits of District Court operations which we determined were reliable. Accordingly, we reduced the scope of our work regarding cash receipts and revenue processing within that Court system. According to the State's records, these revenues totaled approximately \$52.5 million during fiscal year 2019.

According to the State's accounting records, during fiscal year 2019, the Judiciary's operating expenditures, including expenditures for the district and circuit courts, totaled approximately \$566.7 million.

Law Change

Chapter 606, Laws of Maryland 2017, effective October 1, 2017, transferred the responsibility for determining eligibility for most Office of the Public Defender (OPD) services to the Judiciary. As a result, individuals charged with a crime that carries a penalty of incarceration apply to a district court commissioner, rather than to OPD, to obtain the services of a public defender. OPD retained the responsibility for determining eligibility for juvenile proceedings, post-conviction proceedings, probation and parole revocations, involuntary commitments to public or private institutions, and termination of parental rights proceedings. The law leaves in place long-standing criteria for determining indigence for eligibility purposes. Our audit covered the procedures and controls over this eligibility determination process from October 1, 2017 through the end of our audit period June 9, 2019.

Maryland Electronic Courts (MDEC) System Project

The Judiciary implemented the MDEC System in October 2014. MDEC is designed to transform the State's Judicial paper files to digital files and improve the efficiency of each court case by creating a single Judiciary-wide integrated case management system for the State's court system. Courts will collect, store, and process records electronically, and will be able to access complete records instantly as cases travel from district to circuit and on to the appellate courts.

As of July 2020, all but three jurisdictions (Baltimore City, Montgomery County, and Prince George's County) had implemented MDEC and these remaining jurisdictions are scheduled to begin using MDEC by calendar year 2022.

According to the Judiciary's records, as of June 30, 2019, MDEC expenditures totaled \$56.2 million and the projected total cost of implementation is \$73.6 million. In addition, the Judiciary needed to upgrade the physical information technology infrastructure in the State's courthouses to implement MDEC. We were advised that, as of June 30, 2019, expenditures for these upgrades totaled \$6.5 million and the projected total cost of the upgrades is \$14.3 million.

Status of Findings From Preceding Audit Reports

Our audit included a review to determine the status of the five findings contained in our preceding audit report dated May 8, 2017, and one finding related to

eligibility for legal representation by a public defender from our Office of the Public Defender (OPD) audit report, dated January 11, 2018. As disclosed in Figure 1, we determined that the Judiciary satisfactorily addressed three of five findings contained in its preceding report. The remaining two findings are repeated in this report. Additionally, conditions similar to the preceding OPD finding were also noted.

**Figure 1
Status of Preceding Findings**

Preceding Finding	Finding Description	Implementation Status
Judiciary		
Finding 1	The Judiciary lacked adequate documentation to support that certain bid evaluations and contract award decisions were appropriate and certain vendor invoices were verified.	Repeated (Current Finding 1)
Finding 2	Numerous individuals were granted system capabilities allowing them to unilaterally perform certain purchasing or disbursement functions; supervisory approval for the access granted was not always on file.	Not repeated
Finding 3	Controls over the processing of traffic citations and the related collections were not sufficient to ensure all citations were recorded and all collections were deposited.	Not repeated
Finding 4	Monitoring of the security of the financial management system's application and database was not sufficient.	Not repeated
Finding 5	The Judiciary lacked adequate controls over equipment.	Repeated (Current Finding 7)
Office of the Public Defender		
Finding 1	The Office of the Public Defender did not ensure that applications for legal representation were always adequately supported and maintained on file, and that eligibility determinations were subject to supervisory review as required.	Similar conditions noted (Current Finding 6)

Findings and Recommendations

Procurements

Background

The Judiciary, as an independent branch of the State Government, is not subject to the requirements of the State Finance and Procurement Article of the Annotated Code of Maryland and State procurement regulations. The Judiciary established a *Procurement Policy* under the authority of the Chief Judge of the Court of Appeals in accordance with the Maryland Constitution. The *Policy* is intended to foster effective broad-based competitive procurement to support free enterprise and generally requires that all procurements over \$25,000 be competitively bid, and that the reasons for sole source procurements be documented and approved by Judiciary management personnel. The *Policy* also allows for the use of intergovernmental cooperative purchasing agreements (ICPA) or other statewide contracts to achieve competitive prices, terms, and conditions.

According to the State's accounting records, during fiscal year 2019, the Judiciary's non-payroll operating expenditures totaled approximately \$179.5 million. We reviewed Judiciary procedures and controls and tested 10 contracts (8 competitively bid, 1 sole source, and 1 ICPA), procured during our audit period totaling approximately \$36.4 million (including contract modifications totaling \$5.8 million). In addition, we reviewed a \$2.5 million cable and wiring master contract, that was the subject of an allegation received through our fraud, waste, and abuse hotline, and the Judiciary's credit card processing contract, that has been a longstanding contract with the same vendor.

Finding 1

The Judiciary did not adequately secure and/or retain critical procurement documents and did not publish certain contracts on *eMaryland Marketplace (eMM)* as required by its policies.

Analysis

The Judiciary did not adequately secure and/or retain critical procurement documents and did not publish certain contracts on *eMM*¹ as required.

- The Judiciary did not adequately secure contract proposals/bids. Although bids were kept in the Procurement Officer's office prior to the bid opening,

¹ *eMM* is an Internet-based, interactive procurement system managed by the Department of General Services (DGS). Effective July 2019, DGS replaced *eMM* with *eMaryland Marketplace Advantage (eMMA)*.

they were maintained in a manner that allowed access to any party gaining admittance to the office. The *Judiciary Procedures Manual to Conduct Procurements* requires that bids and modifications are to be retained in a secure place until the established due date for bid submission.

- The Judiciary's *Policy* on the retention of critical bid documentation was not as comprehensive as State law. As a result, the Judiciary did not retain certain losing bidders' financial and technical proposals or selection committee evaluations for three of the eight contracts tested totaling approximately \$7.3 million. For example, for one contract tested totaling \$3.2 million, although 28 proposals were received, the Judiciary could not provide us the selection committee evaluations of any of the losing proposals to support the propriety of the selection of the winning vendor.

The *Policy* states that these documents will not be retained after the expiration of the protest period for each contract. It should be noted that State law expressly prohibits the destruction of any record that relates to the financial operation of a unit of State government until the audit requirements are met by the Office of Legislative Audits. A similar condition was included in our preceding audit report. In response to that report and in subsequent correspondence, the Judiciary agreed to retain all bid documentation and a copy of all technical and financial proposals until all audit requirements have been satisfied.

- The Judiciary issued a \$2 million contract (including a \$600,000 modification) procured under an ICPA to purchase office furniture. The Judiciary did not document that the ICPA was competitively procured and resulted in favorable pricing and terms/conditions. The Judiciary's *Policy* allows the use on an ICPA that was solicited and awarded under competitive conditions and results in a favorable price and terms.
- Although we were advised that the Judiciary posted contract solicitations/awards on its public website, it did not publish contract solicitation and/or awards on *eMM* for eight contracts totaling \$34.6 million as required by its *Procedures Manual*. Publishing awards on *eMM* provides potentially greater reach to the vendor community and improved transparency over State procurements including information about winning bidders and the amount of the related awards.

Recommendation 1

We recommend that the Judiciary

- a. ensure contract bids and proposals are adequately secured prior to being opened;**
- b. retain bidding documentation for all procurements, including documentation of evaluations conducted by selection committee members and all technical and financial proposals received (repeat);**
- c. sufficiently analyze and thoroughly document its procurement decisions, including ICPA justifications; and**
- d. publish contract solicitations and awards in accordance with the requirements contained in its *Procedures Manual*.**

Finding 2

The Judiciary did not consider the use of available Statewide contracts resulting in reduced competition and increased costs for consumers.

Analysis

The Judiciary did not consider the use of available Statewide contracts resulting in reduced competition and increased costs for consumers. Our review of a contract procured by the Judiciary for credit card processing identified related services that were available through existing Statewide contracts, and we found the following conditions.

The Judiciary has continually obtained credit card payment services for online and in-person district court transactions using a sole source procurement since at least 1989 even though there was an existing Department of Information Technology (DoIT) Statewide contract for similar services, that would have resulted in lower costs to consumers. The Judiciary contract provides that the vendor can charge consumers a flat fee of \$6.95 per transaction (such as citation payment) regardless of the amount of the charge which, based on transaction data, we estimated totaled \$5.1 million during the period from December 2015 to June 2019. However, had the Judiciary used the Statewide contract for these services, we determined that those same consumers would have been charged fees of three percent per payment which, based on our analysis, would have resulted in collective savings of \$2.7 million to consumers during this period.

The Judiciary advised us that they had considered the use of the Statewide contracts, but there were other factors contributing to its decision, including certain “no-charge” services provided by the vendor. However, there was no documentation that Judiciary formally identified or considered the aforementioned cost considerations to potential consumers in its decision-making

process or that the vendors under Statewide contracts would not make similar no-cost concessions.

It should be noted that due to differing citation amounts, some consumers would have paid a higher fee under the Statewide contract, but collectively savings among all consumers would nevertheless be significant. Specifically, according to the Judiciary's records, between December 2015 and June 2019 there were 739,119 payments processed (individual citation payments ranged from \$0.11 to \$5,000), with a majority of the citation payments (94 percent) being less than \$232 (the point at which \$6.95 fee is more advantageous than three percent charged through the Statewide contract).

The Judiciary also did not adequately justify the use of the sole source procurement for these services (as noted above another contract for similar services existed), could not document how it had negotiated the fee with this vendor, and continued to use the vendor for at least 18 months after the most recent contract, including options, expired in June 2018. In December 2019, during the course of our audit fieldwork, the Judiciary issued another sole source contract to the vendor for the same services. Although the vendor's processing fee was reduced to \$5.95 per transaction, the Judiciary could not justify the sole source procurement or support that it analyzed the new rate to determine if it was reasonable. Based on our aforementioned analysis of citation payments between December 2015 and June 2019, the Statewide contract collectively would still be more beneficial as it would have represented savings of approximately \$2 million to consumers.

Although the Judiciary is not required to use statewide contracts, as previously noted, its *Policy's* stated purpose is to promote effective broad-based competition and it allows for the use of Statewide contracts to achieve competitive prices, terms, and conditions. In addition, the *Policy* allows for the use of sole source procurement, but only under limited conditions including when the compatibility of equipment, accessories, or replacement part is the paramount consideration.

Recommendation 2

We recommend that the Judiciary

- a. consider the use of Statewide contracts to maximize competition and help ensure it receives the most advantageous contract terms; and**
- b. only use the sole source method in accordance with its *Policy*, ensure that the basis for not competitively procuring services is documented, and not continue to use contracts after they have expired.**

Questionable Procurement Activity

Background

We received an allegation through our fraud, waste, and abuse hotline regarding questionable contract activities involving certain Judiciary employees and a vendor performing work under the Judiciary's information systems cable and wiring master contract. The contract was procured in June 2014 to obtain cable and wiring services at the Judiciary's administrative offices and courthouses. The Judiciary awarded the three-year \$2.5 million contract (including seven one-year renewal options) to nine vendors. As of June 9, 2019, payments under the contract totaled approximately \$3.2 million, including \$2.3 million paid to the vendor referenced in the allegation.

The allegation stated that one vendor received the majority of the work awarded under the master contract in exchange for kickbacks and there were conflicts of interest between the vendor and certain undisclosed Judiciary employees. The allegation stated the vendor submitted bids that were significantly lower than the other vendors to win the task order awards and then submitted change orders to compensate for the initial low bids.

Judiciary management advised us that it had received a similar allegation regarding the contract. The Judiciary's Internal Affairs Division in conjunction with its Internal Audit Department performed a review of the allegation, including interviews with employees and reviewing procurement and invoice payment documentation.

The Internal Audit Department's report, dated July 16, 2018, disclosed that the Judiciary had not established sufficient internal controls over master contracts, could not provide critical documentation, and did not have comprehensive written procedures over the procurement and monitoring of master contracts. The Internal Affairs Division issued its final report on August 6, 2018, which concluded that there was no evidence of kickbacks and conflicts of interest, but agreed with the findings included in the Internal Audit Department's report.

While the Judiciary had taken some action to correct the findings in the two aforementioned reports, it had not corrected all the deficiencies the Department had identified, as noted in Finding 4. We reviewed the Judiciary's files supporting the results of its internal audit, and we conducted our own review of the procurement and monitoring of the cable and wiring master contract. Our review identified additional internal control and monitoring deficiencies and certain questionable activity, as described in Finding 3, which we referred to the Office of the Attorney General – Criminal Division. A referral to the Criminal

Division does not mean that a criminal act has actually occurred or that criminal charges will be filed.

Finding 3

The Judiciary did not maintain accurate and comprehensive records of project awards and costs, and did not properly award task orders and change orders, certain of which appeared questionable.

Analysis

The Judiciary did not maintain accurate and comprehensive records of project awards and costs, and did not properly award task orders and change orders, certain of which appeared questionable. We reviewed the Judiciary’s procedures and analyzed the task orders reviewed by the Judiciary’s Internal Audit Department, which confirmed that the vendor identified in the allegation received a significant amount of the awarded task orders and was frequently the only bidder on the tasks. We determined that as of June 9, 2019, despite there being nine approved vendors under this master contract, the Judiciary awarded the vendor in the allegation 123 of the 193 task orders issued on this contract, accounting for \$2.4 million of the \$3.3 million awarded (73 percent). We judgmentally selected six task orders and related change orders totaling \$802,574 for testing (see Figure 2), which were awarded to the vendor identified in the allegation.

**Figure 2
Summary of Task Orders Tested**

Test Item	Courthouse Location for Task Order	Task Order Amount	Number of Bidders	Amount of Change Orders	Number and Percentage Increase of Change Orders		Final Task Order Amount
1	Worcester	\$224,579	1	\$25,455	2	11.3%	\$250,034
2	Harford	149,931	1	12,107	2	8.1%	162,038
3	Allegany	90,674	1	31,188	2	34.4 %	121,862
4	Howard	89,992	1	30,618	2	34.0%	120,610
5	Washington	62,710	2	11,259	3	18.0%	73,969
6	Anne Arundel	41,740	1	32,321	2	77.4%	74,061
Total		\$659,626		\$142,948	13		\$802,574

Source: Judiciary records

Task Order Issuance

When the Judiciary needed information system wiring and cable services, it solicited task order bids from all nine approved vendors and awarded the task

orders to the lowest cost bidders. The winning vendors were issued one or more purchase orders from the Judiciary's automated system for each task order. The Judiciary maintained a manual record of task orders issued on the contract that included the task order number, location and description of the project, date the task was requested, and the reference number and amount for any purchase orders issued on the task order.

- The Judiciary did not maintain complete and accurate records and lacked sufficient procedures over task orders resulting in the failure to identify that it overspent the contract by at least \$664,000 as of June 9, 2019. Our review disclosed that 10 of the 14 purchase orders issued associated with all 6 task orders tested totaling \$460,000 did not have the cable and wiring master contract number recorded. Therefore, the Judiciary could not readily determine which purchase orders were associated with the master contract without manually researching each one. As a result, the Judiciary could not readily determine whether the aggregate amount of payments for task orders had exceeded the contract value.

To determine the impact of this finding, we obtained a report of all purchase orders issued by the Judiciary and used the aforementioned manual record of task orders to identify the purchase orders associated with all vendors under this contract. Based on our review as of June 9, 2019 we were able to identify 237 purchase orders issued by the Judiciary that totaled \$3,269,000 (\$769,000 more than the \$2.5 million contract), with related payments totaling \$3,164,000. Therefore, the Judiciary had overcommitted task orders by \$769,000 and overspent the contract by \$664,000. Judiciary management was not aware of the overspending until we brought the matter to its attention. Subsequently, the Judiciary advised us that the \$2.5 million contract value was an error, as its practice was to not include a not-to-exceed (NTE) amount on master contracts. Upon us questioning this practice, the Judiciary advised us that if an NTE amount is used on its master contracts, there could be internal questions regarding the rationale for processing change orders. However, this practice is contrary to standard contract controls for managing overall costs during the contract term, including determining the impact and rationale of change orders.

The vendor in the allegation was the only bidder for five of the six task orders tested, and for the remaining task order there was only one other bidder. Consequently, the lack of bids from the other eight vendors on the contract in conjunction with the deficiencies noted below raises questions about the validity of the procurement process. We contacted two of the other approved vendors to determine why they generally did not submit bids on task order

solicitations issued under this contract. One vendor advised us that it did not submit bids because it could not figure out why it was not awarded prior task orders, and the other vendor advised us that it had determined it was not competitive on smaller projects in certain parts of the State.

- The Judiciary awarded two task orders totaling \$324,000 (\$250,000 and \$74,000, respectively) based on bids received 5 and 16 calendar days after the bid due dates specified in the solicitations. Judiciary management advised us that the bid due dates for the two task orders had been extended, but could not provide documentation to support that assertion.
- The Judiciary did not notify all of the vendors approved under the master contract that it made changes to the scope of the work for two task orders ultimately totaling \$194,700 (\$74,100 and \$120,600, respectively) after the initial bids were received, but prior to awarding the task order. For example, the Judiciary only requested a revised bid from the vendor in the allegation which was the only vendor to submit a bid on one task order after the Judiciary changed the scope of work to add more cable ports and run additional cable.

Although this was the only vendor that bid on the initial task order solicitation, two other vendors had attended the related site visit conducted in conjunction with the task order request, but advised the Judiciary that they did not have time to submit bids prior to the original bid due date. The vendor submitted the revised bid a month after the original bid due date, which plausibly could have allowed sufficient time for the other two vendors to submit bids, thereby increasing competition on the task order. The vendor's revised bid added \$10,100 to its initial bid price of \$79,900, for a total revised bid of \$90,000.

- The Judiciary did not ensure the vendor submitted all the required information with its six task order proposals precluding it from assessing the reasonableness of the proposed bid costs. The vendor submitted lump sum cost proposals for each task order, but did not include the estimated number of personnel and hours to complete the projects, as required by the contract. Judiciary's failure to obtain this information and effectively assess the reasonableness of the proposed costs is significant because as noted below, the vendor requested and the Judiciary ultimately authorized numerous change orders.

Change Orders

The vendor submitted change order proposals to the Judiciary's project manager for changes requested by the Judiciary and by the vendor. The project manager approved the change order proposals and submitted them to the Judiciary's procurement department for processing in the automated system. We could not readily determine the total amount of change orders issued on the contract because the Judiciary did not initially track this information and instead revised the purchase orders without formal change orders being recorded in the automated system². Based on our review of the documentation for the six task orders tested, we identified 13 change orders totaling approximately \$142,900 (increasing the value of each of the original task orders from 8 percent to 77 percent). Our review of these change orders disclosed the following conditions.

- The Judiciary issued multiple change orders, certain of which were not sufficiently assessed for propriety. Specifically, the vendor requested, and the Judiciary ultimately authorized, 2 or 3 change orders for each of the 6 task orders tested. The Judiciary could not provide documentation that it had assessed the reasonableness of 11 of the 13 change orders totaling \$130,800. This is significant since the allegation noted that the vendor submitted low bids to receive the award and then submitted change orders to compensate for the initial low bids.
- Three change orders totaling \$72,100 included labor costs that should not have been charged or were submitted by the vendor after the related work was already in progress or completed. For example, one change order totaling \$29,700 (which was 71 percent of the initial task order value of \$41,700) was submitted one business day after the bid was received and the task order was awarded, and primarily included costs for overtime and additional management hours required to complete the project on an accelerated schedule. However, there was no documentation that the Judiciary had changed the completion date required in the task order. Therefore, the increased labor costs included in the change order did not appear proper. Our review of documentation for another change order totaling \$15,400 indicated that the vendor had already completed some of the work described in the change order prior to submitting its change order proposal to the Judiciary. This condition was identified in the internal audit, but had not yet been corrected, and further brings into question the propriety of change order costs and the Judiciary's approval.

² The failure to formally award change orders was identified by the internal audit and was subsequently corrected, prior to our review.

Recommendation 3

We recommend that the Judiciary enhance procedures over its task order process. Specifically, the Judiciary should

- a. maintain complete and accurate records of costs on contracts and ensure total costs do not exceed the value of the related contracts without accompanying formal contract modifications that justify the increased costs,**
- b. ensure task orders are awarded only to vendors that submit bids prior to the bid due dates,**
- c. ensure all vendors approved on the master contract are provided an opportunity to bid on revised solicitations,**
- d. ensure vendor proposals contain sufficient detail to determine if costs are reasonable, and**
- e. ensure change orders are documented and assessed for propriety.**

Finding 4

The Judiciary did not take all appropriate recommended corrective action to address allegations it received about its cable and wiring master contract.

Analysis

The Judiciary did not take all appropriate recommended corrective action to address allegations it received about its cable and wiring master contract. In response to a similar allegation to the one received by our Office, the Judiciary's Internal Audit Department conducted a limited scope review of procedures and controls and tested numerous transactions associated with the contract. In its report dated July 16, 2018, the auditors noted that the Judiciary had not established sufficient internal controls over master contracts, could not provide critical documentation (such as change orders) to support certain transactions, and did not have comprehensive written procedures over the procurement and monitoring of master contracts. The report also included several recommendations to strengthen the processes and controls over its cable and wiring master contract.

Although we were advised that all recommendations made by the Department were reviewed by the responsible business units at the time of report issuance and implemented or addressed, as appropriate, our review found the Judiciary had not verified that all corrective action was implemented. Specifically, at the time of our review, the Judiciary had not implemented three of the six recommendations made by the Judiciary's Internal Audit Department. Specifically, the Judiciary had not (a) established dollar thresholds for obtaining approvals on projects, and

did not have (b) comprehensive procedures for recording change orders and (c) procedures for authorizing work to start.

Recommendation 4

We recommend that the Judiciary take appropriate action to address the unresolved recommendations of the internal audit report.

Traffic Citations

Finding 5

The Judiciary had not established effective controls over the processing of traffic citations.

Analysis

Adequate controls were not established over citations processed at the Judiciary's Traffic Processing Center (TPC). TPC recorded the citation information received via the mail from State and local law enforcement departments into Judiciary's Maryland Electronic Courts (MDEC) system or the Maryland Automated Traffic System (MATS) depending on whether the local jurisdiction had adopted MDEC. Once entered into one of the two systems, the information serves as the basis for potential court cases and/or licensing actions.

Specifically, certain TPC employees with access to MATS had the capability to delete recorded citation transactions without independent approval or record of the transaction. Although Judiciary justified the need for the deletion capability, there was no independent online review of deleted transactions, and the Judiciary did not generate system output reports of deleted citations, which could be used by supervisory personnel to subsequently review and verify their propriety. Finally, the Judiciary could not document that it periodically monitored employee access capabilities on MDEC or MATS to ensure that access was properly restricted. As a result, we noted that 13 of 27 TPC employees had access to MDEC that was not needed to perform their job duties. The Judiciary was not aware of this improper access until we brought the access to its attention.

Recommendation 5

We recommend that the Judiciary establish effective controls over the processing of traffic citations. Specifically, we recommend that the Judiciary

- a. modify MATS to prevent the deletion of citations from the records without independent approval or record of the transaction; and**

- b. periodically conduct documented reviews of employee access to MDEC and MATS and remove unnecessary system access on a timely basis, including those noted above.**

Public Defender Eligibility Determinations

Finding 6

The Judiciary did not perform sufficient reviews to ensure the accuracy of eligibility determinations for legal representation by the Office of the Public Defender.

Analysis

The Judiciary did not perform sufficient reviews to ensure the accuracy of eligibility determinations for legal representation by the Office of Public Defender (OPD). As of June 2019, the Judiciary made eligibility determinations for 191,000 unique applicants for legal representation by the OPD since it assumed responsibility in October 2017.

- The Judiciary did not develop a formal policy/definition for determining the applicant's household/family size as required by federal regulations. An applicant is considered eligible if the household/family income is below the federal poverty guideline based on its size. Furthermore, the Judiciary did not obtain documentation to verify the household/family size claimed by the applicant. Consequently, there is a risk that a household/family could be determined arbitrarily based on an employee's personal understanding of household/family size requirements and could be misrepresented by the applicant without detection.
- Applicant information entered into the eligibility database was not reviewed, at least on a test basis, to ensure the accuracy of the data entry. Our test of 20 applications processed by the Judiciary between October 2017 and June 2019 disclosed that for 2 applications the intake workers had omitted or improperly entered certain information (such as social security numbers) in the eligibility database. For another application the applicant's income was not verified as required. We subsequently verified that the eligibility determinations for all three applicants were proper.

Certain of these conditions existed prior to the transfer of these responsibilities to the Judiciary and were identified in one or more of our prior audits of the Office of the Public Defender.

Recommendation 6

We recommend that the Judiciary

- a. establish a formal policy defining family/household size; and**
- b. obtain necessary documentation, or perform other verifications, to determine the validity of family/household size; and**
- c. perform a review, at least on a test basis, to ensure applicant information and related eligibility determinations were accurately recorded and properly performed.**

Equipment

Finding 7

The Judiciary did not establish effective controls over equipment.

Analysis

The Judiciary did not establish effective controls over equipment which, according to its records, was valued at approximately \$105.5 million. The Judiciary maintained two sets of equipment records – one for the equipment of the District Court, which totaled \$25.3 million as of November 5, 2019, and one for the equipment of all remaining Judiciary units, which totaled \$80.2 million as of September 20, 2019.

- Eight employees had access to the warehouse inventory for either the District Court or the other units, and had the capability to update the related automated detail equipment records. The two warehouses were used to store certain sensitive equipment, such as computer equipment, waiting to be issued or disposed of. As a result, these employees could misappropriate equipment items and conceal the theft by changing the status of these items to lost or stolen in the related detail equipment records. According to the Judiciary records, the cost of equipment in the two warehouses totaled \$3.8 million for the District Court and \$3.1 million for the other units as of July 2019. Similar conditions have been commented upon in our three preceding audit reports dating back to August 2010.
- Physical inventories for the District Court were not conducted annually for sensitive items or every three years for non-sensitive items as required by Judiciary’s policy. During our review of the Judiciary’s equipment records, we found 319 equipment items (both sensitive and non-sensitive) with an estimated cost of \$600,000 had not been inventoried as required. For example, as of November 2019, 283 sensitive items totaling \$356,000 had not

been inventoried since 2017. A similar condition related to non-District Court units was included in our preceding audit report.

Recommendation 7

We recommend that the Judiciary establish effective controls over equipment. Specifically, we recommend that

- a. employees who have routine physical access to equipment items not be allowed access to update the related detail records (repeat), and**
- b. periodic physical inventories of equipment be conducted as required by Judiciary's policy (repeat).**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Judiciary for the period beginning December 21, 2015 and ending June 9, 2019. 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 the Judiciary'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 and disbursements, processing of traffic citations and related collections, payroll, equipment, information systems security, and special funds. Furthermore, we reviewed a specific contract relevant to an allegation to our fraud, waste, and abuse hotline. We also determined the status of the findings included in our preceding audit report and determined the status of a finding regarding the eligibility for legal representation by a public defender included in our Office of the Public Defender audit report, dated January 11, 2018.

Our audit included fiscal support services provided by the Judiciary on a centralized basis for the 24 Offices of the Clerks of the Circuit Courts (for example, payroll, processing of invoices, and maintenance of budgetary accounting and equipment records). During the audits of each Office of the Clerk of the Circuit Courts, we audit other fiscal activities that are administered by the Office, such as the collection of funds related to court filings for real estate transactions. Separate audit reports are issued for each of these audits.

Our audit also included a review of information controls for the financial system which supports the Judiciary's Administrative Office of the courts. Our audit included a review of the internal controls related to production data, programs and transactions, and certain general controls over the system. We also perform a separate audit of the Judicial Information Systems which includes reviewing internal controls over its data center, the related data center software, and the Judiciary's wide area network.

The Judicial Internal Audit Division performs audits of the District Courts approximately every three years. During the course of our audit, we judgmentally reviewed internal audit reports and related work papers and relied on the results to reduce the scope of our audit work related to the District Courts' revenue and cash receipt processing functions.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of December 21, 2015 to June 9, 2019, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions and to the extent practicable, observations of the Judiciary's operations. 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 revenue and expenditure data) and the State's Central Payroll Bureau (payroll data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these various sources were sufficiently reliable for the purposes the data were used during this audit. Finally, we performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

Judiciary'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. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to the Judiciary, were considered by us during the course of this audit.

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 controls that could adversely affect the Judiciary'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 the Judiciary that did not warrant inclusion in this report.

The response from the Judiciary 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 Judiciary regarding the results of our review of its response.

APPENDIX A

Auditor's Comments on Judiciary's Response

The Judiciary has indicated disagreement with the factual accuracy of the findings in this report, but in many cases has agreed to implement the related recommendations. In our opinion, many of the expressed disagreements with the factual analysis of certain findings stems from the Judiciary's position as an independent and equal branch of State government. Nevertheless, while we acknowledge that independence, it does not mitigate the Judiciary's responsibility for establishing, and following, appropriate controls to safeguard State assets under its authority and care.

Accordingly, in each instance we reviewed and reassessed our audit documentation and reaffirmed the validity of our findings and related recommendations. As a consequence, we have determined that the findings contained in this audit report are indeed factually accurate, and therefore have decided it is neither necessary nor practical to rebut the Judiciary's many disagreements with the factual accuracy of each analysis on a point-by-point basis, when the Judiciary agreed with the recommendation. One example, will be illustrative for our purposes. Judiciary disagreed with the factual accuracy of Finding 1, stating in part that contrary to our finding no provision existed in its *Procurement Policy* requiring contracts to be published on *eMaryland Marketplace*. While the report did state such publication was required by Judiciary "policies", the detail in the finding identified that this requirement could be found in the Judiciary's *Procedures Manual*. We used both the *Procurement Policy* and the *Procedures Manual* to evaluate the Judiciary's procurement process. Ultimately, Judiciary responded to our finding by stating that the *Procedures Manual* was updated (after we brought the matter to its attention) and would be adhered to in compliance with our recommendation.

We will address those specific instances in which the Judiciary indicated disagreement with particular recommendations via the insertion of "Auditor's Comments" at the relevant parts of the response.

APPENDIX B

Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard
Annapolis, Maryland 21401-1699

See general Auditor's
Comments to response
in Appendix A



MARY ELLEN BARBERA
Chief Judge

March 18, 2021

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Hook:

We have received the draft audit report pertaining to the Maryland Judiciary for the period beginning December 21, 2015, and ending June 9, 2019. The attached document contains our responses to the findings and recommendations in the audit report.

We believe we have responded in full to the findings and recommendations.

Sincerely,

Handwritten signature of Mary Ellen Barbera in blue ink.

Mary Ellen Barbera
Chief Judge of the Court of Appeals

Handwritten signature of Pamela Q. Harris in blue ink.

Pamela Q. Harris
State Court Administrator

Judiciary

Agency Response Form

Procurements

Finding 1

The Judiciary did not adequately secure and/or retain critical procurement documents and did not publish certain contracts on *eMaryland Marketplace (eMM)* as required by its policies.

We recommend that the Judiciary

- a. ensure contract bids and proposals are adequately secured prior to being opened;
- b. retain bidding documentation for all procurements, including documentation of evaluations conducted by selection committee members and all technical and financial proposals received (repeat);
- c. sufficiently analyze and thoroughly document its procurement decisions, including ICPA justifications; and
- d. publish contract solicitations and awards in accordance with the requirements contained in its *Procedures Manual*.

Agency Response			
Analysis	Factually inaccurate¹		
Please provide additional comments as deemed necessary.	<p>The finding states that Judiciary Procurement Policy requires contracts to be published on eMaryland Marketplace (now eMMA). However, no such provision exists in the policy.</p> <p>It is not factually accurate that the Judiciary did not adequately secure contract proposals/bids. The Department of Procurement, Contract & Grant Administration (DPCGA) was housed in a separate suite that was locked 24/7. Access to the suite was monitored and permitted by key card. Judiciary Security personnel managed the key card program and access was based upon position and business need. Anyone else requesting entrance into the suite had to be granted access by someone who had key card access privileges. DPCGA staff serve as back up for each other and work in teams, so file access is necessary.</p>		
Recommendation 1a	Agree	Estimated Completion Date:	01/2021
Please provide details of corrective action or explain disagreement.	<p>While the Judiciary agrees that bids and proposals should be adequately secured prior to being opened, it disagrees with the finding and maintains that adequate procedures were previously in place. Additional measures have now been implemented to further ensure that contract bids and proposals are maintained in a locked file cabinet.</p>		

¹ See Appendix A for Auditor’s Comments about the Judiciary’s declaration of “Factually inaccurate”.

Judiciary

Agency Response Form

	No further changes are necessary.		
Recommendation 1b	Agree	Estimated Completion Date:	03/2021
Please provide details of corrective action or explain disagreement.	<p>The Judiciary previously implemented the requirement to retain contract documents as required by State Law. The Judiciary's practice is to preserve non-winning proposals/bids as well as evaluation forms completed by selection committee members. All evaluation committee members now sign award recommendations. The Procurement Procedures Manual was undergoing a comprehensive review during the time of the audit and has now been fully updated and the retention requirement is included in the revised Procurement Procedures Manual.</p> <p>No further changes are necessary.</p>		
Recommendation 1c	Agree	Estimated Completion Date:	01/2021
Please provide details of corrective action or explain disagreement.	<p>The Judiciary thoroughly analyzes and documents all critical procurement decisions. Particularly as it relates to ICPAs, the staff has been retrained on the importance of documenting that proposed contracts were competitively bid and awarded by the lead agency, resulting in favorable pricing and terms.</p> <p>No further changes are necessary.</p>		
Recommendation 1d	Agree	Estimated Completion Date:	03/2021
Please provide details of corrective action or explain disagreement.	<p>The requirement was found in the Procedures Manual which has since been updated to reflect the Judiciary's long-standing practice of advertising solicitations both on eMMA and the Judiciary website, while posting successful awards only to the Judiciary website.</p> <p>No further changes are necessary.</p>		

Judiciary

Agency Response Form

Finding 2

The Judiciary did not consider the use of available Statewide contracts resulting in reduced competition and increased costs for consumers.

We recommend that the Judiciary

- a. consider the use of Statewide contracts to maximize competition and help ensure it receives the most advantageous contract terms; and**
- b. only use the sole source method in accordance with its *Policy*, ensure that the basis for not competitively procuring services is documented, and not continue to use contracts after they have expired.**

Agency Response			
Analysis	Factually inaccurate²		
Please provide additional comments as deemed necessary.	<p>The Judiciary considers the use of statewide contracts, however, as an independent branch of government, it is not obligated to only use those contracts. Consequently, the Judiciary further solicits other vendors to maximize competition for appropriate services.</p> <p>It should be noted that the statewide contract for Credit Card processing services referenced by OLA in its finding has come under significant scrutiny, in part because of the unforeseen costs to the State. The Judiciary contends that OLA’s calculation of a \$2.7 million savings to consumers is fallacious.</p> <p>In contrast, the contract awarded by the Judiciary has proven, productive, efficient, and cost effective. Despite information furnished to OLA by the Judiciary, OLA failed to take many features of the subject contract into consideration, including point of sale (POS) terminals, hardware, maintenance, training and installations, all of which are provided at no-cost.</p> <p>The sole source justification provided by the District Court supporting the use of the vendor’s product and services was comprehensive and issued in accordance with policy.</p>		
Recommendation 2a	Agree	Estimated Completion Date:	Ongoing
Please provide details of corrective action or explain disagreement.	<p>Although the Judiciary disagrees with the overarching finding, the Judiciary will continue to consider statewide and any other available contract vehicles in selecting the most advantageous procurement method and options to meet its needs.</p>		

² See Appendix A for Auditor’s Comments about the Judiciary’s declaration of “Factually inaccurate”.

Judiciary

Agency Response Form

Recommendation 2b	Agree	Estimated Completion Date:	Ongoing
Please provide details of corrective action or explain disagreement.	Although the Judiciary disagrees with the overarching finding, the Judiciary will continue to only use sole source procurements in accordance with its policy and will ensure that all such decisions are appropriately documented. The Judiciary will also ensure that contracts are not used after they have expired.		

Judiciary

Agency Response Form

Questionable Procurement Activity

Finding 3

The Judiciary did not maintain accurate and comprehensive records of project awards and costs, and did not properly award task orders and change orders, certain of which appeared questionable.

We recommend that the Judiciary enhance procedures over its task order process. Specifically, the Judiciary should

- a. maintain complete and accurate records of costs on contracts and ensure total costs do not exceed the value of the related contracts without accompanying formal contract modifications that justify the increased costs,**
- b. ensure task orders are awarded only to vendors that submit bids prior to the bid due dates,**
- c. ensure all vendors approved on the master contract are provided an opportunity to bid on revised solicitations,**
- d. ensure vendor proposals contain sufficient detail to determine if costs are reasonable, and**
- e. ensure change orders are documented and assessed for propriety.**

Agency Response	
Analysis	Factually inaccurate³
Please provide additional comments as deemed necessary.	<p>It is not factually accurate that the Judiciary did not maintain complete and accurate records and lacked sufficient procedures over task orders.</p> <p>Details for all questioned purchase orders were maintained by the Judicial Information Systems (JIS) Project Manager on a separate spreadsheet and subsequently linked to the master contract within the financial system.</p> <p>The Judiciary disagrees that a secondary procurement process under a master contract that results in a single bid is questionable. While the Judiciary affords all master contractors equal opportunity to participate, it cannot control how many vendors submit offers/bids. In fact, the two vendor responses referenced by OLA show that there are many business reasons a vendor may choose not to submit a bid. Also, the Procurement Officer is readily available and responds to all vendor inquiries. The Judiciary also attempts to contact vendors who appear at a scheduled site</p>

³ See Appendix A for Auditor's Comments about the Judiciary's declaration of "Factually inaccurate".

Judiciary

Agency Response Form

	<p>visit, but do not submit a bid. The Procurement Officer utilizes any feedback received in order to improve future PORFPs.</p> <p>The Judiciary further disagrees that change orders were not documented or sufficiently assessed for propriety. The identified change orders totaling \$12,700 and \$72,100 were documented and assessed for appropriateness. Change orders may be required due to unexpected circumstances encountered at the job site once work is proceeding or timeline changes are necessary.</p> <p>Historically, contracts, requisitions, and change orders have been documented in detail and maintained by JIS. Documentation supporting change orders is available for audit inspection.</p>		
Recommendation 3a	Agree	Estimated Completion Date:	12/2020
Please provide details of corrective action or explain disagreement.	<p>While the Judiciary partially disagrees with the overarching finding, it will ensure that complete and accurate records regarding the project requirements, costs, change orders, and task orders are maintained. Further, while the Judiciary feels that it was already effectively monitoring contract spend, it has now established “not-to-exceed” values for all master contracts awarded on or after December 2020, as an additional tracking method. Contract spend and details are maintained and tracked in the financial system.</p> <p>No further changes are necessary.</p>		
Recommendation 3b	Agree	Estimated Completion Date:	01/2021
Please provide details of corrective action or explain disagreement.	<p>The procedure is that task orders are awarded after the bid due date and only to vendors that submitted bids prior to the related bid closing.</p> <p>OLA identified one task order that was awarded prior to the bid closing. This occurred because the successful vendor was the only vendor who attended the mandatory site visit and was, therefore, the only vendor eligible to submit a bid. Even so, staff have been retrained that this action is not in compliance with Procurement Policy.</p> <p>No further changes are necessary.</p>		

Judiciary

Agency Response Form

Recommendation 3c	Agree	Estimated Completion Date:	01/2021
Please provide details of corrective action or explain disagreement.	<p>Although the Judiciary disagrees with the overarching finding, it will continue to ensure that all awarded vendors on a master contract are given an equal opportunity to submit bids/proposals on PORFPs. Specifically, in cases where PORFPs are revised, all master contractors will be furnished with the same revised information and given equal opportunity to submit bids/proposals.</p> <p>No further changes are necessary.</p>		
Recommendation 3d	Agree	Estimated Completion Date:	01/2019
Please provide details of corrective action or explain disagreement.	<p>The recommended corrective actions were implemented in January 2019. Since that time, a more comprehensive review of vendor proposals is conducted by the Project Manager and the evaluation team.</p> <p>No further changes are necessary.</p>		
Recommendation 3e	Agree	Estimated Completion Date:	01/2019
Please provide details of corrective action or explain disagreement.	<p>All change orders are documented and assessed for propriety. The change orders noted by OLA were and are maintained by the Judiciary. A detailed spreadsheet was previously provided to OLA.</p> <p>Many of the change orders were required as a result of unforeseen building conditions. For example, the Judiciary requires the submission of a change request form by the Project Manager/trial court administrator initiating the change. The form includes a description of the change, background for the change, and categorization of the change such as: change in specifications, change in building conditions, change in external conditions, etc. Each form contains the approval of the Project Manager. The Judiciary also maintains a detailed spreadsheet that logs all requisitions sent to Procurement utilizing the cable and wiring contract. In addition to the multiple data points related to the project, a status of “new project” or “continuation of existing project” is captured.</p>		

Judiciary

Agency Response Form

Finding 4

The Judiciary did not take all appropriate recommended corrective action to address allegations it received about its cable and wiring master contract.

We recommend that the Judiciary take appropriate action to address the unresolved recommendations of the internal audit report.

Agency Response	
Analysis	Factually inaccurate⁴
Please provide additional comments as deemed necessary.	The Judiciary fully addressed the recommendations of the internal audit report and adjusted business processes, as appropriate. In some cases, the actions recommended were superseded by previously implemented procedures which satisfied or exceeded the recommended actions presented in the report.
Recommendation 4	Disagree Estimated Completion Date:
Please provide details of corrective action or explain disagreement.	<p>The Judiciary has reviewed all recommendations proffered in the July 16, 2018, Internal Audit report. Specifically, the three recommendations that OLA contends were not implemented are discussed below:</p> <p>(a) established dollar thresholds for obtaining approvals on projects As recommended by Internal Audit, business processes were implemented in January 2019 requiring that all cabling and wiring project requisitions utilize a two-level documented review, with signatures by the Judicial Information Systems (JIS) team, before the Statement of Work (SOW) is referred to Procurement.</p> <p>No change is required.</p> <p>(b) did not have comprehensive procedures for recording change orders When a change order is required to an existing purchase order, the Project Manager is required to submit a new requisition which then progresses through the established, appropriate approval levels. The existing purchase order is modified to reflect the requested change and corresponding dollar amount. The contract is then modified, if required, with all approvals in scope.</p> <p>No change to the policy is required.</p>

⁴ See Appendix A for Auditor’s Comments about the Judiciary’s declaration of “Factually inaccurate”.

Judiciary

Agency Response Form

	<p>(c) procedures for authorizing work to start In January 2019, JIS enhanced its internal procedures to include that any additional work or change orders not specifically outlined in PORFPs must be authorized and approved in writing prior to any work beginning. No additional work may proceed without a Procurement approved purchase order authorizing the work which includes authorization signatures, per Procurement Policy and Procedures.</p> <p>No change is required.</p>
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Auditor's Comment: The Judiciary disagreed with our recommendation that it take appropriate action to address the unresolved recommendations of the internal audit report. The Judiciary stated in its response that it had adjusted business processes, as appropriate, to address the recommendations in its internal audit report. This disagreement is troubling as we had multiple meetings with Judiciary personnel to discuss the action taken by the Judiciary to address the internal audit report recommendations. At no point could the Judiciary provide us documentation, such as comprehensive written procedures over change order approvals, to support that it had taken appropriate action to address internal audit recommendations or otherwise sufficiently demonstrate that it had taken action to address the recommendation until after we brought the matter to the Judiciary's attention. Accordingly, our finding is accurate and our recommendation is appropriate.

Judiciary

Agency Response Form

Traffic Citations

Finding 5
The Judiciary had not established effective controls over the processing of traffic citations.

We recommend that the Judiciary establish effective controls over the processing of traffic citations. Specifically, we recommend that the Judiciary

- a. modify MATS to prevent the deletion of citations from the records without independent approval or record of the transaction; and
- b. periodically conduct documented reviews of employee access to MDEC and MATS and remove unnecessary system access on a timely basis, including those noted above.

Agency Response			
Analysis	Factually inaccurate⁵		
Please provide additional comments as deemed necessary.	Periodically conducting documented reviews of employee access and removing unnecessary access on a timely basis is necessary. A quarterly review of access is currently being conducted for all employees and was implemented prior to the conclusion of this audit and is provided to JIS security. In addition, a detailed review of the rights and roles assigned to traffic processing center (TPC) staff was conducted, and unnecessary rights were removed. This security review was being conducted previously but focused on the Maryland Automated Traffic System (MATS) only.		
Recommendation 5a	Disagree	Estimated Completion Date:	07/2021
Please provide details of corrective action or explain disagreement.	<p>The Judiciary disagrees with the recommendation to remove the ability to delete citations from MATS but agrees that developing a report to track the deletion of citations would provide better accountability to the current process.</p> <p>The deletion of citations is necessary as the Judiciary is still transitioning to a singular case management system. Until that time, deletions must occur to allow a citation to be removed from one system and entered into another system to avoid duplicate reporting to the MVA. These deletions only occur when a transfer of information is required due to a court's ruling on a motion or if an error occurred such as when an officer inputs the incorrect jurisdiction.</p>		

⁵ See Appendix A for Auditor's Comments about the Judiciary's declaration of "Factually inaccurate".

Judiciary

Agency Response Form

	The current process requires multiple steps, including tracking through a help desk ticket which substantiates the record of transaction. However, the Judiciary will create a report to identify deleted citations on a monthly basis. This report will require documentation of the authorization by a manager for the deletion of the citation.		
Recommendation 5b	Agree	Estimated Completion Date:	03/2020
Please provide details of corrective action or explain disagreement.	The Judiciary agrees with this recommendation and has already implemented the same. Review of employee access for MDEC and MATS is completed on a quarterly basis with verification sent to JIS. All rights and roles in MDEC have been reviewed for all staff and modified in accordance with what is needed for that respective position. No further changes are necessary.		

Auditor's Comment: Although the Judiciary disagreed with the factual accuracy of our finding and part of Recommendation 5a, it agreed to create a report to identify deleted citations on a monthly basis for a documented review by management personnel. The process described by Judiciary will be acceptable as long as the management personnel is independent of the citation deletion process.

Judiciary

Agency Response Form

Public Defender Eligibility Determinations

Finding 6
The Judiciary did not perform sufficient reviews to ensure the accuracy of eligibility determinations for legal representation by the Office of the Public Defender.

We recommend that the Judiciary

- a. establish a formal policy defining family/household size; and
- b. obtain necessary documentation, or perform other verifications, to determine the validity of family/household size; and
- c. perform a review, at least on a test basis, to ensure applicant information and related eligibility determinations were accurately recorded and properly performed.

Agency Response			
Analysis	Factually inaccurate ⁶		
Please provide additional comments as deemed necessary.	<p>Criminal Procedure § 16-210 outlines the requirements for the District Court Commissioners to determine eligibility for the Office of the Public Defender. This statute requires an application under oath or affirmation and provides that the eligibility of an individual whose assets and net income are less than 100 percent of the Federal Poverty Guidelines (FPG) can be determined without further assessment. Only those individuals whose net income is over 100 percent of the FPG require further assessment as to financial ability.</p> <p>The Judiciary follows the controlling statute and the requirements of that statute. District Court Commissioners are judicial officers who exercise discretion, and the statute properly leaves the determination to the District Court Commissioner. In addition, individuals who are denied eligibility can petition a judge to reevaluate the Commissioner’s determination.</p>		
Recommendation 6a	Agree	Estimated Completion Date:	10/2020
Please provide details of corrective action or explain disagreement.	<p>The Judiciary has established a definition of family/household size, and the definition has been distributed to all Commissioners.</p> <p>No further changes are necessary.</p>		

⁶ See Appendix A for Auditor’s Comments about the Judiciary’s declaration of “Factually inaccurate”.

Judiciary

Agency Response Form

Recommendation 6b	Disagree	Estimated Completion Date:	N/A
Please provide details of corrective action or explain disagreement.	<p>Judicial officers are not investigators, nor should they be. Investigation(s) into the validity of the household size or information not required by statute violates this principle and is inconsistent with the controlling statute. The Judiciary follows the controlling statute and the requirements of that statute.</p> <p>No action is necessary.</p>		
Recommendation 6c	Disagree	Estimated Completion Date:	N/A
Please provide details of corrective action or explain disagreement.	<p>Since the official record is the electronic record in the Public Defender Eligibility System, all files are reviewed through a quality control process to ensure all documents have been scanned and appear in the system correctly. As Commissioners are independent judicial officers, there is no constitutional or statutory authority for one Commissioner to review the findings of another Commissioner. Commissioner decisions may be reviewed upon application of any party, and/or by a judge, which is the proper reviewing authority.</p> <p>No action is necessary.</p>		

Auditor’s Comment: The Judiciary disagreed with our finding and recommendations to ensure it obtained the necessary documentation, and reviewed that documentation, at least on a test basis, to ensure applicant information and eligibility determinations were accurately recorded and properly performed. As the Judiciary is responsible by State law for making the eligibility determinations, we continue to believe it should ensure applicant information and related eligibility determinations are accurately recorded and properly performed.

Judiciary

Agency Response Form

Equipment

Finding 7

The Judiciary did not establish effective controls over equipment.

We recommend that the Judiciary establish effective controls over equipment. Specifically, we recommend that

- a. employees who have routine physical access to equipment items not be allowed access to update the related detail records (repeat), and
- b. periodic physical inventories of equipment be conducted as required by Judiciary’s policy (repeat).

Agency Response	
Analysis	Factually inaccurate⁷
Please provide additional comments as deemed necessary.	<p>The Judiciary disagrees that the eight referenced employees could “misappropriate equipment items and conceal the theft by changing the status of these items to lost or stolen in the related detail equipment records.”</p> <p>Employees are granted access to the system as needed based upon job requirements and segregation of duty controls. These employees must have system rights to receive, transfer, or modify the status of equipment to effectively perform their jobs and those functions are mostly accomplished with a scanner. The warehouse employees do not have the ability to change the status of an equipment record to “lost or stolen”. The status of “lost or stolen” requires supporting documentation. The system logs all additions, modifications, and deletions to all equipment records.</p> <p>The Judiciary further disagrees that District Court sensitive item inventories were not conducted in 2017, 2018 and 2019. The District Court performed physical inventories, as required by policy.</p> <p>In fact, the District Court performed sensitive item inventories in 2017, 2018 and 2019. Only the regular asset inventory was delayed, due to equipment difficulties with scanner and hardware support. Consequently that inventory began in 2019. A blind inventory was and is being performed with scanners.</p>

⁷ See Appendix A for Auditor’s Comments about the Judiciary’s declaration of “Factually inaccurate”.

Judiciary

Agency Response Form

Recommendation 7a	Disagree	Estimated Completion Date:	08/2021
Please provide details of corrective action or explain disagreement.	<p>Judiciary fixed asset staff are granted access to the fixed asset system as needed based upon job requirements and segregation of duty controls. These employees must have rights to receive, transfer, or modify the status of equipment to effectively perform their jobs. The employees are not able to delete or dispose of an asset.</p> <p>All asset deletions are processed through a disposal process which is approved only by the Superintendent or the Manager of Facilities Administration. The system logs all modifications, additions, and deletions or disposals of fixed assets. These asset records cannot be deleted.</p> <p>The Judiciary is implementing a new fixed asset system that is fully integrated with its financial system. This integrated system removes the dual tracking and reconciliation required between the fixed asset and financial systems.</p>		
Recommendation 7b	Agree	Estimated Completion Date:	Ongoing
Please provide details of corrective action or explain disagreement.	<p>The Judiciary will continue to ensure that physical inventories, including sensitive items are inventoried in accordance with its policy.</p>		

Auditor's Comment: The Judiciary partially disagreed with the factual accuracy of our finding and recommendation that employees who have access to the warehouse inventory should not have the capability to update the related automated detail equipment records. We continue to believe that our finding is valid, and the Judiciary has responsibility to establish effective internal control over equipment. We might add that OLA recommended corrective action is consistent with longstanding inventory control practices/standards for State Executive branch agencies, which OLA has found provide effective and meaningful control and accountability, which is presently lacking in the Judiciary's procedures.

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