

Financial Management Practices Audit Report

Montgomery County Public Schools

September 2022

Public Notice:

In compliance with the requirements of the State Government Article Section 2-1224(i), of the Annotated Code of Maryland, the Office of Legislative Audits has redacted cybersecurity findings and related auditee responses from this report.



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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

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Gregory A. Hook, CPA
Legislative Auditor

September 29, 2022

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Mark S. Chang, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We conducted an audit of the financial management practices of the Montgomery County Public Schools (MCPS) in accordance with the requirements of the State Government Article, Section 2-1220(e) of the Annotated Code of Maryland. The objectives of this audit were to evaluate whether MCPS' procedures and controls were effective in accounting for and safeguarding its assets and whether its policies provided for the efficient use of financial resources.

Our audit disclosed that MCPS' procurement policies were not sufficiently comprehensive and were not always consistently used when obtaining goods and services under intergovernmental cooperative purchasing agreements. In addition, our test of 10 construction-related procurements totaling \$192.3 million disclosed that MCPS did not always document compliance with State procurement laws and its policies for construction-related procurements, as it did not maintain documentation for losing bids, fee negotiations, and bid openings in the presences of witnesses. Furthermore, MCPS did not always perform inspections of contracted construction projects or prepare reports of inspections performed in accordance with written procedures, assess liquidated damages when the related contractor missed project completion deadlines, or ensure proper supporting information was provided prior to payment.

Our audit also disclosed that MCPS did not competitively procure or establish a fixed cost to be paid on a contract to use a vendor's school bus safety camera system to assess violations against drivers that illegally pass a stopped school bus.

In addition, the contract lacked sufficient details to enable effective monitoring of the amounts invoiced and paid to the vendor, which totaled \$21.9 million as of June 30, 2021.

Significant risks existed within MCPS' computer network. However in accordance with the State Government Article, Section 2-1224(i) of the Annotated Code of Maryland, we have redacted these findings from this audit report. Specifically, State law requires the Office of Legislative Audits to redact cybersecurity findings in a manner consistent with auditing best practices before the report is made available to the public. The term "cybersecurity" is defined in the State Finance and Procurement Article, Section 3A-301(b), and using our professional judgment we have determined that the redacted findings fall under the referenced definition. The specifics of the cybersecurity findings were previously communicated to MCPS as well as those parties responsible for acting on our recommendations.

Furthermore, our audit also disclosed that MCPS needs to improve internal controls and accountability in certain areas, including payroll processing and health care claims and fee processing; and had not formalized its financial relationship with an affiliated foundation. For example, MCPS did not ensure critical human resources and payroll transactions were independently reviewed for propriety.

Finally, based on our current audit assessment of significance and risk to our audit objectives, our audit included a review to determine the status of 12 of the 16 findings contained in our preceding audit report. For the non-cybersecurity-related findings we determined that MCPS satisfactorily addressed 2 of these findings. The remaining 3 findings are repeated in this report as 4 findings.

MCPS' response to this audit is included as an appendix to this report. We reviewed the response to our findings and recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues. In accordance with our policy, we have edited MCPS' response to remove any vendor names or products mentioned by MCPS in this document. Consistent with the requirements of State law, we have redacted the elements of MCPS' response related to cybersecurity audit findings.

We wish to acknowledge the cooperation extended to us during our audit by

MCPS and its willingness to address the audit issues and to implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink, reading "Gregory A. Hook". The signature is written in a cursive style with a large, stylized 'G' and 'H'.

Gregory A. Hook, CPA
Legislative Auditor

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

Background Information

Statistical Overview

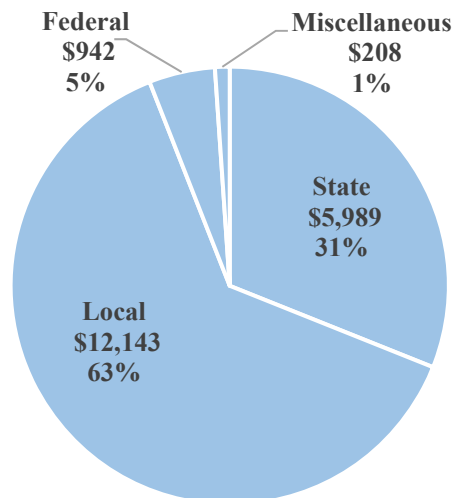
Enrollment

According to student enrollment records compiled by the Maryland State Department of Education (MSDE), Montgomery County Public Schools (MCPS) ranks first in student enrollment among the 24 public school systems in Maryland. Fiscal year 2020 full-time student enrollment was 165,267 students. MCPS had 208 schools, consisting of 135 elementary schools, 40 middle schools, 25 high schools, and 8 other types of schools (including 5 special, 2 early childhood learning centers, and 1 alternative).

Funding

MCPS revenues consist primarily of funds received from the Montgomery County, State, and federal governments. According to MCPS' audited financial statements, revenues from all sources totaled approximately \$3.2 billion in fiscal year 2020; including approximately \$989.8 million from the State. See Figure 1 below for MCPS' revenue sources per enrolled student in fiscal year 2020 according to its audited financial statements.

Figure 1
MCPS' Revenue Sources Per Enrolled Student
Fiscal Year 2020

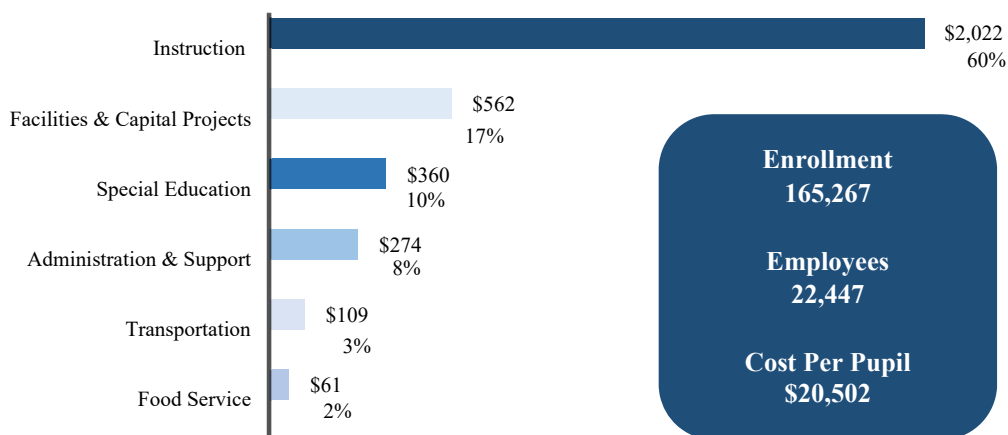


Source: MCPS' Fiscal Year 2020 Audited Financial Statements and MSDE Data

Expenditures

According to MCPS' audited financial statements, fiscal year 2020 expenditures were approximately \$3.4 billion. The largest expenditure category was salaries and wages, including benefits, which accounted for approximately 74.5 percent of total expenditures during fiscal year 2020. According to MSDE records, during the 2019-2020 school year, MCPS had 22,447 full-time equivalent positions, which consisted of 15,491 instructional and 6,956 non-instructional positions. Instruction accounted for over half of MCPS' expenditures on a categorical basis (see Figure 2).

Figure 2
MCPS Expenditures by Category and Selected Statistical Data
Fiscal Year 2020
(amounts in millions)



Source: MCPS' Fiscal Year 2020 Audited Financial Statements and MSDE Data

Oversight

MCPS is governed by a local school board, consisting of seven elected voting members and one voting student member. The student member has the same rights and privileges as an elected member, and can vote on and participate in all matters except those specifically prohibited by law, such as the suspension or dismissal of teachers, principals, and other professional personnel. In accordance with State law, MSDE provides considerable oversight of MCPS through the establishment and monitoring of various financial and academic policies and regulations. MSDE also works with MCPS to comply with the requirements and

mandates of federal law. The Montgomery County government also exercises authority over MCPS primarily through the review and approval of MCPS' annual operating and capital budgets.

External Audits

MCPS engages a certified public accounting firm to independently audit its annual financial statements. The firm performs procedures to verify the amounts and disclosures in the financial statements. The firm also evaluates the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. In the related audit reports, the firm stated that the financial statements presented fairly, in all material respects, the financial position of MCPS as of June 30, 2015, 2016, 2017, 2018, 2019, and 2020 and the changes in its financial position and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Additionally, in accordance with *Government Auditing Standards*, as part of the audited financial statements the accounting firm also issued separate reports on MCPS' control over financial reporting and its tests of MCPS' compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. This report is an integral part of the annual independent audited financial statements. The accounting firm also conducts the Single Audit of MCPS' federal grant programs. The Single Audit is intended to provide assurance to the federal government that adequate internal controls are in place, and the entity is generally in compliance with program requirements.

We reviewed the aforementioned financial statement audits and Single Audit reports for fiscal years 2015 through 2020, and examined the related work papers for the fiscal year 2020 audits, which were the latest available during our audit fieldwork.

Certain work of the independent certified public accounting firm, which we determined was reliable, covered areas included in the scope of our audit. As a result, we did not conduct any audit work related to the following areas:

- State and local government revenues received via wire transfer
- Accounts receivables
- Federal grant activity

The independent accounting firm did not disclose any material deficiencies in these areas.

Status of Findings From Preceding Audit Report

Based on our current assessment of significance and risk relative to our audit objectives, our audit included a review to determine the status of 12 of the 16 findings contained in our preceding audit report dated May 19, 2016. As disclosed in Figure 3, for the non-cybersecurity-related findings, we determined that MCPS satisfactorily addressed 2 of these findings. The remaining 3 findings are repeated as 4 findings in this report.

Figure 3
Status of Preceding Findings

Preceding Finding	Finding Description	Implementation Status
Finding 1	Checks received at certain locations were not recorded nor restrictively endorsed immediately upon receipt, and accountability over the transfer of collections to the controller's office for deposit was not established.	Not repeated (Not followed up on)
Finding 2	MCPS had not sufficiently pursued collection of delinquent accounts receivable and non-cash credits could be processed without independent approval and adequate supporting documentation.	Not repeated (Not followed up on)
Finding 3	A number of employees had procurement and disbursement system capabilities assigned which allowed them to perform incompatible functions.	Status Redacted ¹
Finding 4	MCPS awarded a \$900,000 contract without using a competitive procurement process or justifying that decision and, for five other contracts tested, MCPS did not assess the benefits of intergovernmental cooperative purchasing agreements as required by State law.	Repeated (Current Findings 1 and 10)
Finding 5	MCPS' monitoring of certain contracts did not ensure that the best value was obtained or that payments did not exceed the contract amounts.	Not repeated
Finding 6	Independent reviews did not provide sufficient assurance that certain personnel transactions, such as changes to employee information and salary, were proper.	Repeated (Current Finding 2)
Finding 7	The MCPS core network firewalls were not configured to properly secure the MCPS network, allowing overly broad network level access with insufficient security event logging and monitoring	Status Redacted
Finding 8	The MCPS network was not sufficiently secured to assist in the detection/prevention of potential network security breaches and attacks, and restrict access to critical servers.	Status Redacted
Finding 9	Workstations and servers were not sufficiently protected against malware, as administrative access was not properly restricted and systems were running outdated or unsupported system software.	Status Redacted

¹ Specific information on cybersecurity findings has been redacted from this publicly available audit report in accordance with State Government Article, Section 2-1224(i) of the Annotated Code of Maryland.

Figure 3
Status of Preceding Findings

Preceding Finding	Finding Description	Implementation Status
Finding 10	Network, application, and database account and password controls were not sufficient to properly protect critical resources, as they did not meet minimum thresholds in accordance with recognized best practices.	Status Redacted ¹
Finding 11	Controls over the critical student information and financial management system databases were not sufficient, as security activity was not logged, and various software in use was no longer supported by the respective developers.	Status Redacted
Finding 12	MCPS did not have a complete information technology disaster recovery plan for recovering computer operations.	Status Redacted
Finding 13	Maintenance supervisors did not ensure work orders were completed timely and that the completion of work was properly recorded in the automated system.	Not repeated (Not followed up on)
Finding 14	MCPS did not use formal targets for revising bus routes or fully use its automated routing software to improve route efficiency and 300 routes were found with ridership significantly below bus ridership goals.	Not Repeated
Finding 15	Bus maintenance work order records frequently did not reflect the current status of assigned maintenance work, and discrepancies in the maintenance parts and supplies inventory were not timely investigated and resolved.	Not repeated (Not followed up on)
Finding 16	MCPS did not ensure the propriety of certain employee and retiree healthcare claims paid by its plan administrators.	Repeated (Current Finding 12)

Transportation Management Personnel Under Investigation

In September 2021, MCPS' Procurement Department identified questionable purchases through its normal review of credit card activity, which was referred to MCPS' Internal Audit Unit in accordance with MCPS' *Policy for Reporting and Handling Fraudulent Actions by MCPS Employees, Agents, or Contractors*. MCPS' Internal Audit Unit conducted a limited review in October 2021 of a transportation management employee's credit card activity. The Internal Audit Unit issued a report dated November 17, 2021, which identified questionable purchases (such as gift cards, furniture, and purchases shipped to the employee's

¹ Specific information on cybersecurity findings has been redacted from this publicly available audit report in accordance with State Government Article, Section 2-1224(i) of the Annotated Code of Maryland.

home) made by the management employee.

MCPS further discovered the existence of an account maintained by a transportation vendor outside the control of MCPS' Office of Finance that was funded with amounts owed to MCPS. This "off the books" account was used to make payments to several MCPS employees and to purchase goods and services circumventing MCPS' established policies and procedures. Specifically, the account was funded with amounts due to MCPS for liquidated damages resulting from the transportation vendor failing to deliver goods timely and credits for certain items included in the original bus procurement contract and paid for that were subsequently cancelled.

Based on the results of the internal audit and the discovery of the account maintained by the vendor, MCPS reported the questionable activity to the Montgomery County Police Department. Additionally, MCPS hired an accounting and advisory firm in December 2021 to conduct an independent forensic investigation of the aforementioned account and certain transactions during the period from July 2016 to January 2022.

In February 2022, the firm issued a report which identified that approximately \$1.2 million had been deposited in the account and that payments totaling approximately \$649,000 were made either directly to MCPS employees or for purchases of goods and services purportedly on behalf of MCPS during the period from October 2017 to November 2021. As of November 16, 2021, the account had a balance totaling \$535,036. The firm also reviewed MCPS credit card purchases during the period July 2016 to January 2022 and identified purchases totaling approximately \$572,000 made by transportation department employees that were considered questionable or required additional review. The firm stated in the report that additional work would be necessary to fully investigate the aforementioned activity.

On November 15, 2021, MPCPS placed two transportation management employees on administrative leave pending investigation into the questionable purchases. One of the employees was subsequently terminated in February 2022 and the other employee resigned in March 2022.

As of April 7, 2022, we were advised by MCPS management that MCPS, the Montgomery County Police and State's Attorney Office, were still conducting investigations related to these issues. Specifically, MCPS was pursuing collection of the credit balance totaling \$535,036 with the transportation vendor, was modifying its process for purchasing buses, and developing procedures for how it accounts for changes to bus specifications; including ensuring that credits from

vendors are handled properly. Furthermore, MCPS management advised us that it provided training on proper credit card usage, decreased credit card purchasing limits as necessary, and eliminated credit cards based on limited or no purchasing activity. Finally, MCPS was planning to further review certain questionable credit card purchases identified by the firm.

Findings and Recommendations

Revenue and Billing Cycle

Background

Montgomery County Public Schools (MCPS) revenues consist primarily of funds received from Montgomery County, the State, and the federal government. According to MCPS' audited financial statements, revenues from all sources totaled approximately \$3.2 billion in fiscal year 2020; including approximately \$989.8 million from the State.

External Audits

There were similarities between the work of the independent certified public accounting (CPA) firm that audited MCPS' financial statements and the objectives of our audit for certain revenue activities. As a result, we relied on this work to provide audit coverage for State and local government revenues received via wire transfer and accounts receivable, for which the CPA's procedural review and testing disclosed no material weaknesses or significant deficiencies.

School Activity Funds

Schools collect funds for other purposes such as student activities, clubs, and school publications. Because they are not considered school revenue, these school activity funds (referred to as Independent Activity Funds by MCPS) are accounted for separately by each school, and reported in summary in the audited financial statements. During fiscal year 2020, school activity collections totaled \$25.6 million and the June 30, 2020 fund balance was \$15.4 million.

MCPS' Board of Education (the Board) has a fiduciary responsibility to ensure that school activity funds were used only for intended purposes. The independent CPA firm contracted by MCPS to perform the annual financial audit also conducts limited reviews of the school activity funds. These reviews consist primarily of school activity fund bank reconciliations, and receipt and disbursement transactions at selected schools performed on a rotating basis (five were reviewed for fiscal year 2020). The CPA's review did not disclose any issues.

In addition, it is the policy of MCPS' internal auditor to conduct annual audits of the school activity funds at each of its schools.² The reviews consisted of evaluating and testing compliance with MCPS' policies, regulations, and

² Due to the COVID-19 pandemic health crisis, audits of school activity funds were performed at 78 of the 208 schools in fiscal year 2020.

procedures as per the *FY 2019 - 2020 Financial Manual - Cash Control of School Funds*. The *Manual* establishes standard procedures for all schools to follow to ensure school activity funds are adequately safeguarded and accounted for in a uniform manner. The results of the reviews were provided to the respective school's principal and MCPS management to be addressed. Our review of the internal auditor's findings for fiscal years 2019 and 2020 generally found the management of these funds to be adequate and that any control weaknesses identified were not prevalent. The internal audit reports reviewed did not identify any improprieties regarding the misuse of funds.

Conclusion

Based on our current assessment of significance and risk relative to our audit objectives, we relied on the work of the CPA and the MCPS internal auditor to provide audit coverage in this area, including procedures and controls related to the accounting for and safeguarding of cash receipts with respect to revenue and billing.

Federal Funds

Background

MCPS receives funds pertaining to federal government programs that are generally restricted for use for a specific program (such as the School Lunch Program or Special Education). According to MCPS' Single Audit, fiscal year 2020 expenditures totaled \$123.8 million, not including federally funded fee-for-service programs such as Medicaid reimbursement for special education services.

According to MCPS' records, MCPS was awarded federal COVID-19 pandemic grant funds totaling \$422.7 million to be distributed over federal fiscal years 2020 to 2024 under the Coronavirus Aid, Relief, and Economic Security Act, Coronavirus Response and Relief Supplemental Appropriations Act, and American Recovery Plan Act. Eligible MCPS expenditures related to these COVID-19 grant programs totaled \$7.4 million, from March 2020 to May 2021, and were primarily comprised of personal protection equipment and sanitary supplies. MCPS initially funded the expenditures with State and local funds and intends to obtain reimbursement from the aforementioned programs to the extent allowed.

Single Audit Reports Disclosed Minimal Reportable Conditions Regarding Federal Grant Management

There were similarities in the work performed by the independent certified public accounting firm that conducted the Single Audit of MCPS' federal grants and the

objectives of our audit in this area. In addition to expressing an opinion on MCPS' compliance with the terms of several grant programs, the auditor also considered the existing internal control structure's impact on compliance and audited the required Schedule of Expenditures of Federal Awards (which includes claimed and reported grant expenditures) for fiscal years 2015 through 2020.

The related reports stated that MCPS complied, in all material respects, with the requirements applicable to its major federal programs. With respect to internal controls over compliance with, and the operation of, major federal programs, the auditors did not identify any material weaknesses or significant deficiencies, except for fiscal year 2018, when the auditors identified two significant deficiencies that were not considered to be material weaknesses. These deficiencies were indicated as being resolved in the fiscal year 2019 report.

Medicaid Funds for Eligible Services

MCPS has established a procedure to identify children eligible for Medicaid-subsidized services and the services rendered. Medicaid is an entitlement program for which certain service costs can be reimbursed to MCPS. Medicaid activity is not covered by the Single Audit of federal grants.

The Maryland State Department of Education's Interagency Medicaid Monitoring Team issued a report in February 2020 of the results of its review of 79 student case files for 49 criteria (including the correct billing of Medicaid for eligible services). The report found that MCPS was 100 percent compliant with 43 criteria and between 91 and 99 percent compliant with the remaining 6 criteria. According to MCPS records, fiscal year 2020 state and federal reimbursements for Medicaid-subsidized services totaled approximately \$4.1 million, which was 22 percent lower than the previous year. We were advised by MCPS that this decrease was due to the impact of the COVID-19 pandemic health crisis, as certain services could not be provided, or did not qualify for reimbursement, in a virtual environment.

Conclusion

Based on our current assessment of significance and risk relative to our audit objectives, our audit did not include a review of Medicaid-subsidized services. We relied on the work of the independent certified public accounting firm that conducted the Single Audits for all other work in this area, including policies, procedures, and controls with respect to federal grants and expenditures.

Procurement and Disbursement Cycle

Background

According to the audited financial statements and MCPS' records, disbursements (excluding payroll) totaled \$863 million during fiscal year 2020. MCPS uses an automated financial system for purchases and disbursements which was implemented in November 2020. Requisitions are created in the system by departments and are subject to on-line departmental and Purchasing Department approvals. Purchases orders are prepared in the system by the Purchasing Department based on approved requisitions received from the requesting department. The Purchasing Department generally handles the solicitation, bid evaluation, and establishment of contracts.

Hardcopy invoices related to the procurement of goods are generally submitted by vendors directly to the accounts payable department for entry into the financial management system. The invoices for services are submitted to the respective school or department receiving the service for approval, and are then forwarded to the accounts payable department. The system matches invoices to appropriate purchasing documents and the verification of receipt entered by the receiving school or department. The system then prints vendor checks or processes an electronic payment and posts the payment to the financial records.

MCPS written procurement policies require that procurements exceeding \$25,000 be competitively bid in accordance with Section 5-112 of the Education Article of the Annotated Code of Maryland. Contracts and agreements exceeding \$25,000 are to be approved by the Board.

Finding 1

MCPS procurement policies did not incorporate certain requirements of State law and recognized best practices when participating in intergovernmental cooperative purchasing agreements (ICPA). In addition, ICPA invoices were not always verified to related contract pricing.

Analysis

Certain requirements of State law and recognized best practices were not incorporated into MCPS policies and were not used consistently by MCPS when participating in an ICPA. Specifically, our review of MCPS procurement policies disclosed that the following statutory requirement and critical best practices were not included.

- Prepare a written assessment of the benefits of using an ICPA, as required by State law

- Analyze all costs of conducting competitive solicitations
- Research, compare, and evaluate available ICPAs
- Verify the ICPA solicitation was competitively bid and publicly advertised, and obtain originating agency's competitive procurement documentation (including public advertisements and proposal evaluations)
- Verify that the terms, scope of services, specifications, and price meet MCPS needs
- Obtain a copy of the ICPA and related price lists for invoice verification

We tested MCPS' participation in three ICPAs (selected based on significance) during fiscal years 2019 and 2020, with contract awards totaling approximately \$20.9 million. Our review disclosed that MCPS did not have a written assessment of the benefits of using an ICPA for the ICPAs tested, as required by State law. In addition, three of the five best practices (analyzing the costs of conducting competitive solicitations; researching, comparing, and evaluating other available ICPAs; and verifying that the ICPA was competitively bid) were not required by MCPA policy or performed for the ICPAs tested. A similar condition was commented upon in our preceding audit report.

Incorporating the statutory requirement and best practices into MCPS policies could help ensure they are consistently used. In this regard, best practices for allowing utilization by other parties was executed for all of the ICPAs, as required by MCPS policy.

MCPS also did not ensure the amounts invoiced by the ICPA vendors agreed with the original contract pricing. Specifically, our test of five payments totaling \$3.3 million related to the three aforementioned ICPAs disclosed that MCPS had not obtained the price information to verify it was receiving the discounts or pricing as stated in the governing ICPA. MCPS relied on informal cost proposals received from the vendors, instead of the actual contract terms and conditions from the ICPAs, to verify invoice pricing. However, we were able to determine the reasonableness of the prices charged through available price lists or internet searches of comparable items.

State law, which legal counsel to the Maryland General Assembly advised us is applicable to local education agencies, allows the use of cooperative purchasing arrangements or ICPAs only after the using entity has determined (or assessed) in writing that the use of such arrangements will provide cost benefits, promote

administrative efficiencies, or promote intergovernmental cooperation.³

Furthermore, the Institute for Public Procurement, formerly known as the National Institute of Government Purchasing, as well as other public and educational organizations have published ICPA best practices. These practices include comprehensive multi-step checklists that require, among other things (as per the list above), that prospective ICPA users verify that the contract allows other entities to participate. In addition, ICPA users should ensure that the contract was awarded through a competitive procurement process, and requires that addendums be executed documenting their participation and incorporating local required terms and conditions.

Recommendation 1

We recommend that MCPS

- a. incorporate the aforementioned statutory requirement and other identified and acknowledged best practices into its procurement policies, and ensure that the performance of the requirement and best practices is documented when evaluating participation in ICPAs (repeat); and**
- b. ensure that amounts invoiced by ICPA vendors agreed with the related contract pricing.**

Human Resources and Payroll

Background

Payroll expense represents the largest single cost component in the MCPS budget. According to MCPS' records, fiscal year 2020 salary, wage, and benefit costs totaled approximately \$2.5 billion, representing approximately 75 percent of the total expenditures. According to Maryland State Department of Education reports, during the 2019-2020 school year MCPS had 22,447 full-time positions, which consisted of 15,491 instructional and 6,956 non-instructional positions.

³ Section 13-110 of the State Finance and Procurement Article, of the Annotated Code of Maryland in part, defines an intergovernmental cooperative purchasing agreement (ICPA). As defined, an ICPA is a contract that is entered into by at least one governmental entity in a certain manner, that is available for use by the governmental entity entering the contract and at least one additional governmental entity, and that is intended to promote efficiency and savings that can result from intergovernmental cooperative purchasing. The aforementioned law applies to all ICPAs regardless of the services, goods, or commodities purchased. In addition, Section 5-112(a)(3) of the Education Article of the Code provides that local education agencies do not need to conduct competitive procurements for goods and commodities if they use a contract awarded by public agencies or intergovernmental purchasing organizations and the originating procuring agency followed public bidding procedures.

MCPS uses automated systems to maintain human resources information, record employee time, track employee leave usage, and process and record payroll transactions. Employees are required to use direct deposit which is processed by MCPS' payroll system.

Finding 2

MCPS did not ensure critical human resources and payroll transactions were independently reviewed for propriety.

Analysis

MCPS did not ensure critical human resources and payroll transactions were independently reviewed for propriety. Specifically, MCPS did not use available reports of new employees added to the system and salary changes to verify the propriety of the transactions posted to the system. As a result, improper or erroneous additions and salary changes could be processed without detection. Our testing did not disclose any such improper transactions.

During fiscal year 2020, MCPS processed 3,110 employee additions and \$41.8 million in salary increases. Similar conditions regarding the lack of an independent review of human resources and payroll transactions were commented upon in our preceding audit report.

Recommendation 2

We recommend that MCPS verify, at least on a test basis, the propriety of personnel additions and salary changes recorded in the human resources and payroll system (repeat). Specifically, independent supervisory personnel should use transaction reports generated from the system to identify these transactions and verify they were proper by reviewing related supporting documentation.

Equipment Control and Accountability

Background

According to MCPS' audited financial statements, the undepreciated value of its capital equipment inventory totaled \$228.7 million as of June 30, 2020. MCPS maintains centralized automated records for all equipment with a cost of \$5,000 or more (including assets capitalized for financial statement purposes) and certain other categories of equipment deemed sensitive that exceed designated cost limits (such as cafeteria equipment with a cost of \$1,000 or more). Control and recordkeeping of laptop computers assigned to employees and students was maintained on a separate database. MCPS has established comprehensive written

equipment policies and performs inventories at each school on a staggered every other year basis.

Conclusion

Based on our current assessment of significance and risk relative to our audit objectives, our audit did not include a review of policies, procedures, and controls with respect to the equipment area of operations.

Information Technology

We determined that Findings 3 through 7 related to “cybersecurity”, as defined by the State Finance and Procurement Article, Section 3A-301(b) of the Annotated Code of Maryland, and therefore are subject to redaction from the publicly available report in accordance with the State Government Article, Section 2-1224(i). Consequently, the specifics of the following findings, including the analysis, related recommendations, along with MCPS’ responses, have been redacted from this report copy.

Finding 3
Redacted cybersecurity-related finding.

Finding 4
Redacted cybersecurity-related finding.

Finding 5
Redacted cybersecurity-related finding.

Finding 6
Redacted cybersecurity-related finding.

Finding 7
Redacted cybersecurity-related finding.

Facilities Construction, Renovation, and Maintenance

Background

MCPS employs a staff of 1,970 employees to maintain its 208 schools (including special schools, alternative programs, and early childhood learning centers) and a number of other facilities (such as administrative and support offices). According to its fiscal year 2021 Capital Improvement Plan, necessary construction, major renovations, and systemic improvements to MCPS' facilities over the next six years are estimated to cost approximately \$1.7 billion.

Processes are in Place to Promote On-Going Facility Maintenance and to Minimize Energy Costs

MCPS has processes in place to promote on-going facility maintenance and to minimize energy costs. For example, MCPS provides preventive maintenance of its buildings and equipment to prevent emergency repairs. In addition, MCPS utilizes a vendor energy management program to monitor and control heating and air conditioning usage and a utility billing management system to monitor related costs. MCPS also has written best practices that encourage both students and employees to be aware of and limit their energy use and conducts internal on-site reviews of building energy efficiency. MCPS also makes use of solar and geothermal alternative energy sources. According to MCPS' records, MCPS saved over \$4.2 million through energy cost avoidance from fiscal years 2016 to 2019 (which we did not audit).

Finding 8

MCPS did not always comply with State procurement laws and its policies for construction-related procurements.

Analysis

MCPS did not always comply with State procurement laws and its policies for construction-related procurements. We tested 10 procurements (generally selected based on contract type and dollar significance) during fiscal years 2018 to 2020, that consisted of 2 architectural and engineering (AE), 3 construction manager (CM), and 5 general contractor (GC) contracts valued at \$192.3 million (initial award and subsequent change orders), which disclosed the following conditions:

- MCPS did not maintain critical documentation to support the award of 5 contract awards (2 AE and 3 CM) valued at \$151.1 million. Specifically, MCPS could not provide us with losing bidders' technical proposals for the contracts tested. In addition, MCPS could not provide us with documentation

that the selection committee had evaluated the 12 AE and 7 CM MCPS Board-approved selection criteria (such as, the firms past experience and qualifications of key personnel) on these contracts. Specifically, for 2 contracts valued at \$120.8 million, MCPS could not provide documentation of the selection committee evaluations and ranking of the bidders, and for the other 3 contracts valued at \$30.3 million MCPS could not provide documentation of the selection committee evaluations.

- MCPS could not provide documentation of how the fees were negotiated or determined for the aforementioned 5 contract awards (2 AE and 3 CM) valued at \$151.1 million. In addition, for the 3 CM contracts valued at \$148.8 million, MCPS procured and awarded the contracts without considering price in making the selection, as required by State law. MCPS issued requests for qualifications that did not require the amount of the costs and fees be included by bidders; therefore the CMs were selected based on qualifications only. We were advised by MCPS that the amount the CMs were to be paid under the contract was negotiated, even though State law requires that contracts for school building and improvements be awarded to the responsible bidder with consideration given to the price offered by the bidder. Counsel to the Maryland General Assembly has previously advised that the cited law applies to local school system contracts for CM services.
- For 5 GC contracts valued at \$41.2 million, MCPS did not have evidence that one or more witnesses were present at the time of the bid opening, as required by the *FY 2019 - 2020 Financial Manual - Procurement* procedures. Based on our review of MCPS' bid documentation for the related procurements we determined that the lowest responsible bidder was selected.
- MCPS did not publish bids and awards on *eMaryland Marketplace (eMM)*⁴ for 8 procurements valued at \$190 million as required by State law. Publishing solicitations and awards helps provide transparency over the procurements. State law requires a local school system to publish a procurement solicitation or notice of award greater than \$50,000.

Recommendation 8

We recommend that MCPS adhere to State procurement laws and policies, Board approved procurement procedures, and properly document the bid submission and evaluation, and fee negotiation process.

⁴ *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*).

Finding 9

MCPS did not always perform inspections of construction projects, assess liquidated damages, or ensure proper supporting information was provided prior to payment.

Analysis

MCPS did not always perform inspections of construction projects, assess liquidated damages, or ensure proper supporting documentation was provided prior to payment. We tested 30 payments totaling \$42.4 million on 10 construction-related contracts valued at \$192.3 million with payments totaling \$183.9 million during fiscal years 2019 and 2020.

- For 8 contracts, with payments totaling approximately \$181.8 million, that required daily inspections, the inspections were either not always performed or inspection reports were not always prepared by on-site inspectors in accordance with MCPS' written procedures. Inspectors are to make sure the project is built per the MCPS approved plans and specifications, and prepare daily reports detailing weather conditions and manpower. Our review disclosed that daily inspections were only performed for 70 of the 459 days tested (see Figure 4). Although there were periodic progress meetings between MCPS and the contractors, the failure to prepare written inspection reports for MCPS' review results in a reduced assurance that work was performed as provided for in the contracts.

Figure 4
Review of Inspections Conducted
March 2019 to June 2020
(Dollar amount in millions)

Project Location	Contract Payments	Days Tested for Inspections	Number of Daily Inspections
Tilden Middle and Rock Terrace	\$67.5	65	46
Maryvale Elementary and Carl Sandburg Learning Center	50.5	65	24
Luxmanor Elementary	27.9	65	0
Takoma Park Middle	15.1	65	0
McAuliffe Elementary	8.6	67	0
Twinbrook Elementary	4.9	44	0
Ashburton Elementary	3.9	44	0
Highland View Elementary	3.4	44	0
Total	\$181.8	459	70

Source: MCPS records

- For 5 construction contracts valued at \$177.9 million, MCPS did not assess required liquidated damages when the related contractor missed project completion deadlines. Each contract stipulated that time is of the essence with respect to the substantial completion dates and that if the substantial completion date is not achieved the contractor shall pay MCPS liquidated

damages of \$2,500 for each day up to 30 days, \$5,000 per day the second 30 days, and \$500 per day every day thereafter.

Based on our calculations, MCPS could have assessed approximately \$1.4 million in liquidated damages for these contracts, which were delayed a combined 808 days. For 3 of the 5 contracts, the MCPS Board waived a combined \$200,000 of the liquidated damages and approved change orders that extended the substantial completion dates by a combined 327 days, although there was no such waiver provision in the related contracts. Further, we noted that the Board had not waived the remaining liquidated damages totaling approximately \$1.2 million, applicable to these 5 contracts, which were still delayed a combined 481 days. MCPS advised us that it does not routinely assess liquidated damages to avoid penalizing contractors and did not have a formal policy to address processes for waiving liquidated damages.

- For 2 contracts valued at \$71.1 million, required supporting documentation was not provided for materials purchased totaling \$560,000 and included in four payments totaling \$6.6 million. MCPS paid the invoices without obtaining supporting documentation detailing the materials purchased, as required by the contract.

Recommendation 9

We recommend that MCPS

- a. perform and document daily inspections of projects as required;**
- b. assess and collect liquidated damages when appropriate, including the contracts noted above, and implement a formal policy addressing a process for waiving damages in conjunction with change orders (extending contract delivery periods); and**
- c. ensure that required supporting documentation is received for all amounts invoiced prior to payment.**

Transportation Services

Background

According to statistics compiled by the Maryland State Department of Education (MSDE), MCPS has approximately 103,973 students eligible to receive student transportation services. MCPS reported that 20.2 million route miles were traveled to transport students for the 2018-2019 school year and 17.4 million route miles for the 2019-2020 school year. The decline in route miles was attributed to students not requiring transportation during virtual learning as a

result of COVID-19.⁵ These students were transported using 1,375 system-owned buses. According to MCPS' financial records, fiscal year 2020 transportation costs totaled \$109.4 million.

Electric Bus Lease Agreement Was Properly Procured

Our review of a February 2021 lease agreement for \$168.7 million for the use of 326 electric buses, to be phased into service over a 4-year period, found that the lease was competitively bid and approved by the Board. In its award recommendation, MCPS stated the lease would enable them to increase sustainable practices, be good stewards of our natural resources, and operate in a way that was healthy.

We were advised that the total cost of the electric buses is projected to be recovered through funds that would have otherwise been spent on diesel school bus purchases and operations. MCPS believes that the lease provides a turnkey solution that includes lease costs, charging infrastructure and management, electricity, and reimbursement for maintenance costs. Implementation includes delivery of 25 electric buses in fall 2021, 61 in fall 2022, and approximately 120 electric buses each year thereafter.

School Bus Safety Cameras

As allowed by State and County law, MCPS contracted for the use of school bus safety cameras to monitor drivers who illegally pass a stopped school bus. In May 2016, the Board approved a five-year contract (with five one-year renewal options) with a vendor to install and operate cameras that would be owned and maintained by the vendor on MCPS' school buses. The contract also provided for cameras to monitor the conduct of drivers and students inside the bus along with global positioning units to track the buses. Prior to this contract, MCPS was purchasing buses with cameras inside the bus and global positioning units, which were replaced with the vendor's equipment. In June 2016, MCPS entered into a memorandum of understanding (MOU) with Montgomery County since the Montgomery County Police Department (MCPD) was responsible for the issuance of citations processed by the camera system.

The vendor is responsible for operating the system and processing citation payments. The vendor's cameras take images of vehicles (including a specific image of the vehicle license plate) passing a bus that is operating its alternating

⁵ Due to the COVID-19 pandemic, student transportation stopped on March 13, 2020 and did not resume until March 1, 2021. During this time, MCPS continued to pay its employee bus drivers and advised us that its drivers performed other duties including delivering food and laptops to schools, and delivering materials to students' homes. Additionally, MCPS advised us that some drivers assisted the Department of Maintenance with certain tasks, including carpentry, air filter installations, and data entry.

flashing red lights. The registered owner(s) of the vehicles are identified by vendor employees using access provided to Maryland Motor Vehicle Administration (MVA) databases, through the MCPD MOU. After MCPD verifies the image of the event constitutes a violation, a vendor employee prints and mails the citation to the registered owner.

Citations can be paid in-person at the Montgomery County Finance Office, online by credit card, electronically through the internet, by phone through an interactive voice response system, or by mailing a check. The County Finance Office processes citation payments paid in-person through the vendor's system. The vendor's system stores the images of each check payment, remittance stub, associated correspondence, envelope and certified mail receipt. All forms of citation payments are deposited into a County bank account and the County transfers all revenue to a MCPS bank account. MCPS is responsible for distributing revenue to the vendor. The vendor is also required to operate a customer service center with a toll-free number and respond to inquiries from the public.

In July 2019, the Montgomery County Office of the Inspector General (OIG) issued a report regarding the County's MOU with MCPS for the School Bus Safety Camera program. According to the report, the OIG initiated the review in August 2018 after the County was made aware of concerns regarding the vendor's history of prior convictions involving fraud and bribery in another state where it operated a similar program. Although the report disclosed that employees of the County or MCPS did not violate a rule, law, or procedure, or had any inappropriate relationship with the vendor, the report identified the following two findings related to the County:

1. The business case for this program was built around the desired use of a predetermined vendor rather than an objective analysis to design an effective and economical method to achieve an identified outcome.
2. County officials relied, at least in part, on information provided by a criminal conspirator in vetting the vendor and they continued to rely on vendor supplied information when considering the future of the program.

Additionally, the report disclosed there was no revenue sharing agreement with the vendor and it was unclear as to when, or even if, the County would recover its investment in the program. Furthermore, the report disclosed the contract terms appeared to be ambiguously, and generously, tilted toward profitability for the vendor. Finally, as of the date of the OIG report, the County had paid more than \$750,000 for administrative and personnel expenses related to this program and over \$10 million in ticket revenue had been transferred to the vendor.

In addition to the concerns addressed by the aforementioned OIG report related to the County, we received an allegation on our fraud, waste, and abuse hotline that MCPS had entered into a contract to place monitoring cameras on school buses that diverts fines to a private entity when they should be paid to the County. Based on our review, we were able to substantiate the allegation as the contract provided that all funds were to go to the vendor until the vendor recovered its cost of investment. As noted below, as of August 31, 2019 MCPS had paid the vendor \$20.9 million, which exceeded the vendor's initial \$19 million estimated cost of investment by \$1.9 million. We also found certain deficiencies with the procurement of the agreement, its terms, and how it was monitored; although, we did not identify any issues that warranted a referral to the Office of the Attorney General – Criminal Division.

Finding 10

MCPS contracted with a vendor for a school bus camera system without a competitive procurement process or a fixed total cost to be paid. In addition, the contract lacked sufficient details to enable effective monitoring of the amounts invoiced and paid to the vendor.

Analysis

MCPS entered into a contract for the use of a vendor's school bus camera system without a competitive process or a fixed total cost to be paid. In addition, the contract lacked sufficient details to enable effective monitoring of the amounts invoiced and paid to the vendor.

Lack of a Competitive Procurement

MCPS did not conduct a competitive procurement for the camera system contract. Rather, a vendor approached the County and MCPS to install and operate a school bus camera system, including interior cameras and global positioning units that MCPS was already purchasing for each bus. Although MCPS prepared a schedule comparing four companies based on various factors (such as number of interior cameras, but not including a financial or cost consideration), it did not have supporting documentation or an indication of how the information was obtained. MCPS management advised us that the contract with the vendor was awarded under an Intergovernmental Cooperative Purchasing Agreement (ICPA) from another state's school system. However, our review of the ICPA noted the following conditions (several of which were previously noted in finding 1 in this audit report):

- Only a single bidder was evaluated by the other school system in awarding the ICPA.

- The ICPA awarded by the other school system was for a 30 bus fleet, while MCPS had a fleet of approximately 1,300 buses.
- MCPS did not prepare a written assessment of the benefits for using the ICPA as required by State law and it did not research or compare other available ICPAs.
- MCPS did not use any of the key terms and conditions of the existing ICPA. Instead, it negotiated its own terms and conditions with the contractor (see comments below).

As a result, we concluded that with the exception of the general service provided, MCPA procured its own unique contract with the vendor without a competitive procurement process and assurance that it obtained the best value for the school bus cameras program. MCPS ultimately awarded the contract to the company that approached them after visiting another state using the vendor's camera system and conducting a limited pilot program. A similar condition regarding documentation of best value when procuring contracts was noted in our preceding audit report.

Lack of Sufficient Financial Terms

The school bus camera contract did not specify the total amount to be paid to the vendor. The contract provided that the vendor would receive all funds collected from citations issued from the cameras (initially \$125 per violation and subsequently increased to \$250 per violation) until the vendor recovered its initial and on-going cost of investment which included the equipment, system installation and operational expenses. At the time of the contract, these costs were estimated by the vendor to be approximately \$19 million. In addition, there was no provision for the independent verification of the vendor's cost of investment. Further, the contract did not specify the payment terms once the vendor's cost of investment was recovered. Instead, the parties agreed to negotiate, at a later date, a revenue sharing plan that would become effective upon the recovery of investment costs (see below).

Monitoring of Vendor's Recovery of Investment Costs

Although MCPS was monitoring the amount of citation payments made to the vendor, MCPS was not monitoring the vendor's investment costs. MCPS advised us that the vendor did not periodically report its total actual investment costs (including changes), and MCPS did not ask for documentation supporting the investment costs since the contract did not specifically require the vendor to provide this documentation. As a result, MCPS was unaware if the vendor had been fully reimbursed for its cost of investment. As of August 31, 2019 MCPS had paid the vendor \$20.9 million, which exceeded the vendor's initial \$19 million estimated cost of investment by \$1.9 million.

Due to the lack of specific financial terms and the lack of documentation for the vendor's investment costs, in June 2019, Montgomery County engaged a consulting firm to conduct a financial compliance review of the bus camera vendor for transactions occurring from July 1, 2016 to August 31, 2019. The consultant was able to verify that citation revenue totaling \$20.9 million was paid to the vendor, but it was unable to definitively determine the amount of the vendor's investment. The consultant offered four options for determining the investment amount which ranged from \$13 million to \$20 million. In response to the consultant's report, the vendor offered an alternative calculation that increased its investment cost from its initial estimate of \$19 million to \$26 million.

Effective October 2019, MCPS executed a contract amendment to address the vendor's compensation and resolve all disputes concerning the vendor's cost of investment. The amendment acknowledged the vendor had recovered its cost of investment without specifying an amount, and stipulated that going forward the vendor would not be required to provide any records concerning the cost to install, operate, or maintain the bus camera system. The amendment also provided that the County would receive an invoice credit of \$1.6 million for certain costs incurred for processing citations.

Finally, the amendment established citation revenue sharing whereby the vendor would receive 60 percent of the citation revenue going forward for additional future vendor costs. The remaining 40 percent was to be received by the County for its citation processing costs. MCPS could not provide us with documentation to support how the revenue sharing percentage was determined or its justification. As of June 30, 2021, MCPS had paid the vendor citation revenue totaling \$21.9 million and the County had received \$4.8 million since the inception of the contract.

Recommendation 10

We recommend that, in the future, MCPS

- a. adhere to statutory requirements for competitive bidding, where appropriate (repeat);**
- b. ensure contracts include adequate and properly defined financial terms, such as total amounts to be paid, and how costs are to be independently verified; and**
- c. document the basis and reasoning for revenue sharing percentages.**

We determined that Finding 11 related to “cybersecurity”, as defined by the State Finance and Procurement Article, Section 3A-301(b) of the Annotated Code of Maryland, and therefore is subject to redaction from the publicly available report in accordance with the State Government Article, Section 2-1224(i).

Consequently, the specifics of the following finding, including the analysis, related recommendation(s), along with MCPS’ responses, have been redacted from this report copy.

Finding 11
Redacted cybersecurity-related finding.

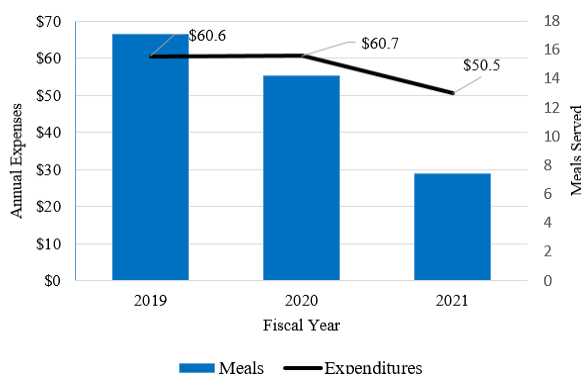
Food Services

Background

According to MCPS’ audited financial statements, food service operating expenditures totaled \$60.7 million in fiscal year 2020, and were primarily funded with federal funds totaling \$42.4 million and food sales totaling \$12.8 million. According to MSDE records, in fiscal year 2020 MCPS had 490 food service positions for its 208 schools, consisting of 461 cafeteria positions and 29 administrative positions.

Similar to other Maryland Local Education Agencies, MCPS continued to serve meals from certain schools during the COVID-19 pandemic health crisis by distributing food through the use of refrigerated food trucks and also backpack food sacks. As shown in Figure 5, the number of meals served declined 57 percent from fiscal year 2019 (17.1 million) to fiscal year 2021 (7.4 million). MCPS’ food service expenditures declined 17 percent during the same period, from \$60.6 million to \$50.5 million. MCPS advised it chose to retain all of its food service employees during the COVID crisis.

Figure 5
Annual Operating Expenses and Total Meals Served
Fiscal Years 2019 to 2021
(amounts expressed in millions)



Source: MCPS’ Comprehensive Annual Financial Reports and Meal Summary Reports

Conclusion

Based on our current assessment of significance and risk relative to our audit objectives, our audit did not include a review of policies, procedures, and controls with respect to the Food Service financial area of operations.

School Board Oversight

Background

The Montgomery County Board of Education (the Board) is composed of seven elected members and one voting student member who has the same rights and privileges except for certain matters (such as the suspension or dismissal of teachers, principals, and other professional personnel). The Board contracted with a certified public accounting firm to conduct independent audits of the MCPS financial statements and federal programs.

To assist in its oversight of various areas of MCPS operations and governance, the Board established several committees, such as Fiscal Management, Policy Management, Special Populations, Strategic Planning, and Communication and Stakeholder Engagement. Additionally, the Board has established two citizen advisory committees, the Collaboration Board for Career and Technology Education, and the District Committee on Assessments, which meet periodically in an open forum to hear public concerns, and submit an annual report to the Board.

MCPS Adopted an Ethics Policy that Met the Requirements of State Law

The Board has adopted a detailed ethics policy that conforms to State law and was approved by the State Ethics Commission. The policy is applicable to both Board members and MCPS employees and includes provisions for conflicts of interest and financial disclosures by Board members and certain employees. Specifically, annual financial disclosure statements are required to be filed by Board members, candidates for the Board, the Superintendent, and other administrators (such as supervisors, school principals, and agency buyers) by April 30th of each year.

In accordance with the policy, MCPS established an Ethics Panel consisting of five members appointed by the Board to interpret ethics policies and provide advice on policy implementation. The Panel also reviews and rules on any reported complaints of ethics violations. Our review of the records for Board members and MCPS employees required to submit financial disclosure forms for calendar year 2019 disclosed that all forms were submitted as required.

Conclusion

Our audit did not disclose any reportable conditions related to school board oversight.

Management of Other Risks

Healthcare Background

MCPS participates in a cooperative purchasing agreement with other regional agencies to obtain employee and retiree health insurance. MCPS is self-insured and contracts with five third-party administrator firms (TPA) for health care claims processing services⁶ for employee and retiree medical, prescription, dental, and vision costs. MCPS also contracts with a consultant to help manage the health plans. The consultant performs data analysis of the health services utilization and costs, provides recommendations on potential rate changes, and evaluates the merits of the health plan proposals.

The health benefit plans for MCPS employees and retirees are financed through separate trust funds and provide plan coverage under contracts with several insurance companies and health maintenance organizations. According to MCPS records, trust fund revenues and expenditures for fiscal year 2021 totaled \$504.9 million and \$510.5 million respectively (see Figure 6). As of June 30, 2021, the balance of the trust funds was \$56.9 million.

Figure 6
MCPS 2021 Healthcare Financing
(In Millions)

Revenues	
Employer Contributions	\$321.4
Employee/Retiree Contributions	90.2
Medicare Reimbursements	31.3
Investments	27.2
Pharmacy Rebates	25.4
Other Revenue	9.4
Total Revenue	<u>\$504.9</u>
Expenditures	
Claims Payments	\$426.7
Health and life insurance premiums (including administrative fees)	79.0
Actuary Reserves and Other Expenses	4.8
Total Expenditures	<u>\$510.5</u>

Source: MCPS Records

MCPS employs a verification process in its enrollment procedures whereby employees must submit documentation (such as, birth certificates) for any dependents they want added to their health plan. As of November 11, 2021, MCPS provided health insurance benefits to approximately 70,100 enrolled employees, dependents, and retirees.

⁶ There is a separate TPA for the claims for each of the preferred provider medical, health maintenance organization medical, prescription, dental, and vision plans.

Finding 12**MCPS did not audit or adequately monitor the performance of its third-party administrators that provide health care claims processing services.****Analysis**

MCPS did not audit or adequately monitor the performance of its third-party administrators (TPAs) that provide health care claims processing services. Specifically, MCPS did not verify the propriety of TPA billings for employee and retiree health care claims, administrative fees, and the receipt of prescription drug rebates. Additionally, MCPS did not perform audits of TPA performance measures.

- MCPS did not obtain and review claim data to support the amounts billed by the five TPAs for health care claims. MCPS was provided with a schedule of the total claims paid for each health plan, rather than detailed claims data. Also, MCPS did not document its review of the accuracy of monthly administrative fees billed by the TPAs. Finally, MCPS did not have a process to ensure that it received all the prescription drug rebates from the pharmacy TPA.
- MCPS did not routinely audit health care claims paid by the TPAs to ensure that the billed services were provided to participants, were covered by the health plans, and that amounts paid were proper. We were advised by MCPS that the sole audit it conducted was for pharmacy claims in 2008. In addition, past and current TPA contracts did not provide for periodic independent third-party audits of the accuracy and validity of claim reimbursements and the TPA's administrative fees paid by MCPS. A similar condition was commented upon in our preceding audit report.
- MCPS did not audit, or otherwise verify, the accuracy of 5 TPAs' self-reported compliance with performance measures. The contracts included 28 performance measures relating to implementation and critical operational areas, including claim accuracy, customer service, customer satisfaction, and reporting. Additionally, the contracts allow for the assessment of penalties (for example, up to a total of \$1.9 million each year for one TPA) if the performance measures are not met. For example, although one medical TPA reported self-assessed penalties of approximately \$228,000 in calendar years 2017 through 2021 based on its reported compliance, MCPS did not have a process in place to verify the TPA's reported compliance even though the contract allows for an independent audit of the performance measures.

Recommendation 12

We recommend that MCPS

- a. establish procedures to independently verify the propriety of TPA billings, and receipt of all prescription drug rebates due;**
- b. compare TPA invoices to its records of enrolled participants and contract rates to determine the propriety of administrative fees billed;**
- c. conduct claims audits to assess the accuracy and validity of claim reimbursements made by the TPAs (repeat); and**
- d. independently verify, on an annual basis, the TPAs' compliance with reported performance measures and assess penalties when performance goals are not met.**

Finding 13

MCPS did not have a memorandum of agreement with its affiliated foundation to address each entity's roles and responsibilities.

Analysis

MCPS did not have a memorandum of agreement (MOA) with its affiliated foundation (Montgomery County Public Schools Educational Foundation) to address each entity's roles and responsibilities. The Foundation is a tax exempt charitable organization under Section 501(c)(3) of the Internal Revenue Service (IRS) code that was created in 1988. According to filings with the IRS and its website, the Foundation's purpose is to support and enhance the educational goals established by the Board of Education of Montgomery County, which it accomplishes through fundraising and providing grants to teachers and scholarships to students.

According to the Foundation's fiscal year 2020 audited financial statements, revenues and expenditures totaled \$1.8 million and \$1.2 million, respectively. Additionally, as of June 30, 2020, the Foundation's assets totaled \$7.7 million, which primarily consisted of cash of \$1.2 million and investments of \$6.5 million. The Foundation's unrestricted funds totaled approximately \$2.3 million.

Under the circumstances, given the Foundation's public purpose and its relationship to MCPS, it would be appropriate to enter into a formal MOA that specifies the roles and responsibilities of each entity, which could include the following:

- The Foundation's solicitation, collection, and administration of funds. Although the Foundation had an investment policy, the policy did not address controls over collected funds including proper collateralization of funds, the

use of interest bearing accounts, and procedures for the accounting and reporting of fund balances. The policy also did not address the need for a long-term plan that maximizes the use of unrestricted funds.

- The Foundation's conflict of interest policy for board members and Foundation employees. Although the Foundation had an ethics policy, the policy was not as comprehensive as those provided for under the State Ethics law, which addresses standards of conduct, ethics training, and completing annual financial disclosures by board members and officers. Such a policy would provide additional assurance regarding the integrity of the Foundation's board and its processes, and should include a requirement to advise MCPS of conflict of interest issues.
- The Foundation's procurement policies for purchases donated to MCPS.
- The Foundation's submission of an annual audit report to MCPS' Board of Education.
- MCPS' sharing of priorities, projects and resource requirements; including the sharing of any non-private data to assist the Foundation's effort.
- MCPS' providing of any in-kind support functions and the use of its facilities to the Foundation.

Recommendation 13

We recommend that MCPS enter into an MOA with its affiliated Foundation detailing the roles and responsibilities for each entity in critical areas such as conflicts of interest, collection and safeguarding funds, and procurement policies.

Audit Scope, Objectives, and Methodology

We conducted a performance audit to evaluate the effectiveness and efficiency of the financial management practices of the Montgomery County Public Schools (MCPS). We conducted this audit under the authority of the State Government Article, Section 2-1220(e) of the Annotated Code of Maryland, and performed it 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.

We had two broad audit objectives:

1. Evaluate whether the MCPS procedures and controls were effective in accounting for and safeguarding its assets.
2. Evaluate whether the MCPS policies provided for the efficient use of financial resources.

In planning and conducting our audit of MCPS, we focused on 11 major financial-related areas of operations as approved on December 6, 2016 by the Joint Audit and Evaluation Committee of the Maryland General Assembly in accordance with the enabling legislation. The scope of the work performed in each of these areas was based on our assessments of significance and risk. Therefore, our follow-up on the status of findings included in our preceding audit report on MCPS dated May 19, 2016, was limited to those findings that were applicable to the current audit scope for each of the 11 areas.

The audit objectives excluded reviewing and assessing student achievement, curriculum, teacher performance, and other academic-related areas and functions. Also, we did not evaluate the MCPS Comprehensive Education Master Plan or related updates, and we did not review the activities, financial or other, of any parent teacher association, group, or funds not under the local board of education's direct control or management.

To accomplish our objectives, we reviewed applicable State laws and regulations pertaining to public elementary and secondary education, as well as policies and procedures issued and established by MCPS. We also interviewed personnel at MCPS and the Maryland State Department of Education (MSDE), and staff at other local school systems in Maryland (as appropriate). Our audit procedures

included inspections of documents and records, and to the extent practicable, observations of MCPS operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives, generally for the period from January 1, 2020 to June 30, 2021. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk, the timing or dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do not normally use sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us cannot be used to project those results to the entire population from which the test items were selected. For certain areas within the scope of the audit, we relied on the work performed by the independent accounting firm that annually audits MCPS' financial statements and conducts the federal Single Audit, as well as the reviews of student activity funds performed by MCPS' Internal Audit Department.

We used certain statistical data—including financial and operational—compiled by MSDE from various informational reports submitted by the Maryland local school systems. This information was used in this audit report for background or informational purposes, and was deemed reasonable.

We also extracted data from the MCPS automated financial management system for the purpose of testing expenditure and payroll transactions. We performed various audit procedures on the relevant data and determined the data were sufficiently reliable for the purposes the data were used during the audit.

MCPS' 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 MCPS, 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. In addition

to the conditions included in this report, other findings were communicated to MCPS that were not deemed significant and, consequently, did not warrant inclusion in this report.

State Government Article Section 2-1224(i) requires that we redact in a manner consistent with auditing best practices any cybersecurity findings before a report is made available to the public. This results in the issuance of two different versions of an audit report that contains cybersecurity findings – a redacted version for the public and an unredacted version for government officials responsible for acting on our audit recommendations.

The State Finance and Procurement Article, Section 3A-301(b), states that cybersecurity is defined as the “processes or capabilities wherein systems, communications, and information are protected and defended against damage, unauthorized use or modification, and exploitation”. Based on that definition, and in our professional judgment, we concluded that certain findings in this report fall under that definition. Consequently, for the publicly available audit report all specifics as to the nature of cybersecurity findings and required corrective actions have been redacted. We have determined that such aforementioned practices, and government auditing standards, support the redaction of this information from the public audit report. The specifics of these cybersecurity findings have been communicated to MCPS and those parties responsible for acting on our recommendations in an unredacted audit report.

MCPS’ response to our findings and recommendations is included as an appendix to this report. Depending on the version of the audit report, responses to any cybersecurity findings may be redacted in accordance with State law. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise MCPS regarding the results of our review of its response.

APPENDIX

Maryland's Largest School District

MONTGOMERY COUNTY PUBLIC SCHOOLS

Expanding Opportunity and Unleashing Potential

OFFICE OF THE SUPERINTENDENT OF SCHOOLS

August 31, 2022

Mr. Gregory A. Hook, CPA
Legislative Auditor, State of Maryland
Office of Legislative Audits
The Warehouse at Camden Yards
351 West Camden Street, Suite 400
Baltimore, Maryland 21201

Dear Mr. Hook:

The response to recommendations made in the Financial Management Practices Report that was issued on August 16, 2022, for Montgomery County Public Schools (MCPS) is enclosed. In addition, an electronic copy also is being forwarded to you today.

As noted in the report, MCPS ranks first in student enrollment among the 24 public school systems in the State of Maryland. The report points out that MCPS engages a certified public accounting firm to independently audit its annual financial statements. The annual external audit evaluates the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. Your report stated the accounting firm indicated that the financial reports were presented fairly, in all material respects, for Fiscal Years 2015 through 2020. The accounting firm also conducts the Single Audit of our federal grant programs that is intended to provide assurance that adequate controls are in place, and that we comply with programmatic requirements. Your report further indicated that the external accounting firm did not disclose any material deficiencies. In addition, it should be noted that MCPS is audited by or on behalf of nearly a dozen other agencies.

We would like to thank the legislative auditors for helping us identify several areas where we can improve our system's performance and efficiency. MCPS staff appreciated the level of professionalism demonstrated by the legislative auditors throughout this audit process.

Please do not hesitate to contact Mr. Robert Reilly, associate superintendent of finance, at 240-740-3160, if you have any questions or need additional information regarding this submission.

Sincerely,



Monifa B. McKnight, Ed.D.
Superintendent of Schools

MBM:MBH:RR:tk

Enclosure

Copy to:

Members of the Board of Education
Mr. Hull

Mr. Reilly
Mr. Klausing

Ms. Webb

Montgomery County Public Schools

Agency Response Form

Procurement and Disbursement Cycle

Finding 1

MCPS procurement policies did not incorporate certain requirements of State law and recognized best practices when participating in intergovernmental cooperative purchasing agreements (ICPA). In addition, ICPA invoices were not always verified to related contract pricing.

We recommend that MCPS

- a. incorporate the aforementioned statutory requirement and other identified and acknowledged best practices into its procurement policies, and ensure that the performance of the requirement and best practices is documented when evaluating participation in ICPAs (repeat); and
- b. ensure that amounts invoiced by ICPA vendors agreed with the related contract pricing.

Agency Response			
Analysis	Factually accurate		
Please provide additional comments as deemed necessary.			
Recommendation 1a	Agree	Estimated Completion Date:	January 2023
Please provide details of corrective action or explain disagreement.	The MCPS procurement policy is due for an update, and MCPS plans on adding a section that will outline the use of ICPAs per the recommendation based on the National Institute of Governmental Purchasing, Inc., best practices, and will include all statutory requirements.		
Recommendation 1b	Agree	Estimated Completion Date:	January 2023
Please provide details of corrective action or explain disagreement.	Procurement relies on the project coordinator of the user department to confirm that the invoices agree with the governing ICPA, therefore, Procurement will work to educate end users on their role in verifying and approving costs related to purchases conducted through the use of ICPAs, and ensuring that amounts invoiced are in agreement with the related contract pricing.		

Montgomery County Public Schools

Agency Response Form

Human Resources and Payroll

Finding 2

MCPS did not ensure critical human resources and payroll transactions were independently reviewed for propriety.

We recommend that MCPS verify, at least on a test basis, the propriety of personnel additions and salary changes recorded in the human resources and payroll system (repeat). Specifically, independent supervisory personnel should use transaction reports generated from the system to identify these transactions and verify they were proper by reviewing related supporting documentation.

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.	As a result of the recommendation from the previous Legislative audit (report dated May 2016), MCPS began and continues to review a sampling of HR/Payroll changes in the system on a quarterly basis. This is performed by the MCPS Internal Audit Unit that gets system-generated reports on a quarterly basis. Currently the selection sample is limited to eight randomly selected staff that had changes.		
Recommendation 2	Agree	Estimated Completion Date:	November 2022
Please provide details of corrective action or explain disagreement.	Based on the recent recommendation, MCPS agrees that these independent reviews of human resource/payroll changes should be sampled on a more frequent basis (coinciding with biweekly payroll), and utilizing a few layers of criteria such a dollar threshold (i.e., a \$10,000 increase in any given pay period), and a minimum number of samples (e.g., 25). These tests will be performed by Payroll, and supporting documentation for the items selected will be reviewed and maintained. Internal Audit will continue to perform quarterly reviews of the biweekly reviews of HR and Payroll.		

Montgomery County Public Schools

Agency Response Form

Information Technology

The Office of Legislative Audits (OLA) has determined that Findings 3 through 7 related to “cybersecurity”, as defined by the State Finance and Procurement Article, Section 3A-301(b) of the Annotated Code of Maryland, and therefore are subject to redaction from the publicly available audit report in accordance with State Government article 2-1224(i). Although the specifics of the findings, including the analysis, related recommendations, along with MCPS’ responses, have been redacted from this report copy, MCPS’ responses indicated agreement with the findings and recommendations.

Finding 3

Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA.

Finding 4

Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA.

Finding 5

Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA

Finding 6

Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA.

Finding 7

Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA.

Montgomery County Public Schools

Agency Response Form

Facilities Construction, Renovation, and Maintenance

Finding 8

MCPS did not always comply with State procurement laws and its policies for construction-related procurements.

We recommend that MCPS adhere to State procurement laws and policies, Board approved procurement procedures, and properly document the bid submission and evaluation, and fee negotiation process.

Agency Response			
Analysis	Factually accurate		
Please provide additional comments as deemed necessary.			
Recommendation 8	Agree	Estimated Completion Date:	August 2022
Please provide details of corrective action or explain disagreement.	MCPS will adhere to state procurement laws (including that contracts for school and improvements be awarded to the responsible bidder with consideration given to the price offered by the bidder), and policies and Board of Education-approved procurement procedures, and properly document the bid submission and evaluation, and fee negotiating process.		

Montgomery County Public Schools

Agency Response Form

Finding 9

MCPS did not always perform inspections of construction projects, assess liquidated damages, or ensure proper supporting information was provided prior to payment.

We recommend that MCPS

- perform and document daily inspections of projects as required;
- assess and collect liquidated damages when appropriate, including the contracts noted above, and implement a formal policy addressing a process for waiving damages in conjunction with change orders (extending contract delivery periods); and
- ensure that required supporting documentation is received for all amounts invoiced prior to payment.

Agency Response			
Analysis	Factually accurate		
Please provide additional comments as deemed necessary.			
Recommendation 9a	Agree	Estimated Completion Date:	August 2022
Please provide details of corrective action or explain disagreement.	MCPS has since initiated a web-based system for the use of the inspection team to document jobsite visits through the written word and photographs, and to note any quality control issues. For major projects, the construction manager is responsible for the overall supervision, inspection, and quality control of the projects. The construction manager records the weather, manpower and job progress, and these reports will be maintained on file. MCPS will also examine existing policy on inspections and may update to address the frequency and responsibilities of inspections based on the size of the project.		
Recommendation 9b	Agree	Estimated Completion Date:	January 2023
Please provide details of corrective action or explain disagreement.	MCPS continues to include a liquidating damage clause in its contracts, and will enforce this option, when appropriate. Although liquidating damages were not collected on the contracts noted, going forward, MCPS will develop a formal policy to address the process for waiving damages.		
Recommendation 9c	Agree	Estimated Completion Date:	August 2022
Please provide details of corrective action or explain disagreement.	MCPS will ensure that appropriate backup documentation is received and reviewed prior to payment and stored with the office file copy and the accounting file copy.		

Montgomery County Public Schools

Agency Response Form

Transportation Services

Finding 10

MCPS contracted with a vendor for a school bus camera system without a competitive procurement process or a fixed total cost to be paid. In addition, the contract lacked sufficient details to enable effective monitoring of the amounts invoiced and paid to the vendor.

We recommend that, in the future, MCPS

- a. adhere to statutory requirements for competitive bidding, where appropriate (repeat);
- b. ensure contracts include adequate and properly defined financial terms, such as total amounts to be paid, and how costs are to be independently verified; and
- c. document the basis and reasoning for revenue sharing percentages.

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 10a	Agree	Estimated Completion Date:	January 2023
Please provide details of corrective action or explain disagreement.	When the current contract expires, MCPS will utilize a competitive bid process and adhere to all statutory requirements.		
Recommendation 10b	Agree	Estimated Completion Date:	January 2023
Please provide details of corrective action or explain disagreement.	Future contract will address adequate and properly defined financial terms, total amounts to be paid and independent verification of costs.		
Recommendation 10c	Agree	Estimated Completion Date:	January 2023
Please provide details of corrective action or explain disagreement.	Future contract will satisfy the recommendation to document the basis and reasoning for the revenue sharing percentages.		

Montgomery County Public Schools

Agency Response Form

OLA has determined that Finding 11 related to “cybersecurity”, as defined by the State Finance and Procurement Article, Section 3A-301(b) of the Annotated Code of Maryland, and therefore is subject to redaction from the publicly available audit report in accordance with State Government article 2-1224(i). Although the specifics of the finding, including the analysis, related recommendation(s), along with MCPS’ response, have been redacted from this report copy, MCPS’ response indicated agreement with the finding and related recommendation(s).

Finding 11

Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA.

Montgomery County Public Schools

Agency Response Form

Management of Other Risks

Finding 12

MCPS did not audit or adequately monitor the performance of its third-party administrators that provide health care claims processing services.

We recommend that MCPS

- a. establish procedures to independently verify the propriety of TPA billings, and receipt of all prescription drug rebates due;
- b. compare TPA invoices to its records of enrolled participants and contract rates to determine the propriety of administrative fees billed;
- c. conduct claims audits to assess the accuracy and validity of claim reimbursements made by the TPAs (repeat); and
- d. independently verify, on an annual basis, the TPAs' compliance with reported performance measures and assess penalties when performance goals are not met.

Agency Response			
Analysis	Factually accurate		
Please provide additional comments as deemed necessary.			
Recommendation 12a	Agree	Estimated Completion Date:	June 2023
Please provide details of corrective action or explain disagreement.	MCPS agrees that periodic audits would be prudent and included language in the recent Request For Proposal (RFP) to have it funded through contract. Intent is to conduct an audit every 3-4 years, that would review the propriety of billings and prescription drug rebates.		
Recommendation 12b	Agree	Estimated Completion Date:	January 2023
Please provide details of corrective action or explain disagreement.	MCPS does review administrative fee expenses as submitted by vendors. We acknowledge the concern expressed and will formalize the review process in written form for clarity.		
Recommendation 12c	Agree	Estimated Completion Date:	August 2024
Please provide details of corrective action or explain disagreement.	MCPS agrees that periodic audits would be prudent and included language in the recent RFP to have it funded through contract. Intent is to conduct the audit following the 2023 Plan year on the selected vendor with results provided in the July/August 2024 timeframe.		

Montgomery County Public Schools

Agency Response Form

Recommendation 12d	Agree	Estimated Completion Date:	June 2024
Please provide details of corrective action or explain disagreement.	MCPS does receive self-reported performance guarantee failures as noted in the Third Party Administrator contracts. Neither MCPS nor our benefits consultants are aware of any independent verification process or organization that offers this type of monitoring on contracts for performance guarantees as the areas are uniquely separate (telephone response time, network management, member service metrics, etc.). However, MCPS will continue to look further into performance guarantees. The financial performance indicators would be captured within the medical audit. MCPS will perform a search to identify appropriate vendors.		

Montgomery County Public Schools

Agency Response Form

Finding 13

MCPS did not have a memorandum of agreement with its affiliated foundation to address each entity's roles and responsibilities.

We recommend that MCPS enter into an MOA with its affiliated Foundation detailing the roles and responsibilities for each entity in critical areas such as conflicts of interest, collection and safeguarding funds, and procurement policies.

Agency Response			
Analysis	Factually accurate		
Please provide additional comments as deemed necessary.			
Recommendation 13	Agree	Estimated Completion Date:	October 2022
Please provide details of corrective action or explain disagreement.	MCPS and the Educational Foundation are currently working to put together a memorandum of agreement (MOA). This MOA will address roles and of each entity within the relationship. This will include the Foundation's procurement policies, conflict of interest policy, sharing of resources, audit process, and any in-kind support in regards to its relationship with MCPS.		

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