

Audit Report

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**Office of the Attorney General**

May 2023

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

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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber  
Executive Director

Gregory A. Hook, CPA  
Legislative Auditor

May 25, 2023

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

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Office of the Attorney General (OAG) for the period beginning May 9, 2018 and ending June 15, 2022. OAG is a public office established under the Constitution of Maryland, and acts as legal counsel to the Governor, the General Assembly, the Judiciary, and State agencies. OAG also enforces antitrust, consumer protection, and securities laws; prosecutes Medicaid provider fraud; and monitors residential juvenile facilities.

Our audit disclosed that OAG did not adequately monitor certain critical components of the contract it procured in June 2017 for implementation of a case management system to ensure that all critical deliverables were received. As of September 2022, the system had not been fully implemented, and we noted that certain payments were not made in accordance with the contract.

Our audit also disclosed that OAG did not ensure all outstanding payroll errors and discrepancies were resolved, and that adjustments to employee leave balances were not subject to independent review and approval.

Finally, our audit included a review to determine the status of the two findings contained in our preceding audit report. We determined that OAG satisfactorily addressed those findings.

OAG's response to this audit is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have

concluded that the corrective actions identified are sufficient to address all audit issues.

We wish to acknowledge the cooperation extended to us during the audit by OAG. We also wish to acknowledge OAG's willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive style with a large, prominent initial "G".

Gregory A. Hook, CPA  
Legislative Auditor

## **Background Information**

### **Agency Responsibilities**

The Office of the Attorney General (OAG) is a public office established under the Constitution of Maryland. OAG operates under the provisions of Title 6 of the State Government Article. OAG acts as legal counsel to the Governor, General Assembly, Judiciary, State agencies, boards, and commissions, and represents the State in all legal matters of interest to the State. OAG also reviews legislation passed by the General Assembly; enforces antitrust, consumer protection, and securities laws; prosecutes Medicaid provider fraud; and monitors residential juvenile facilities. According to the State's records, OAG's expenditures totaled approximately \$42.7 million (primarily salaries and wages) during fiscal year 2022. (See Figure 1 on the following page)

**Figure 1  
OAG Positions, Expenditures, and Funding Sources**

<b>Full-Time Equivalent Positions as of June 30, 2022</b>		
	<b>Positions</b>	<b>Percent</b>
Filled	259	89.3%
Vacant	<u>31</u>	10.7%
<b>Total</b>	<b>290</b>	
<b>Fiscal Year 2022 Expenditures</b>		
	<b>Expenditures</b>	<b>Percent</b>
Salaries, Wages, and Fringe Benefits	\$34,214,312	80.2%
Technical and Special Fees	1,720,312	4.0%
Operating Expenses	<u>6,748,779</u>	15.8%
<b>Total</b>	<b>\$42,683,403</b>	
<b>Fiscal Year 2022 Funding Sources</b>		
	<b>Funding</b>	<b>Percent</b>
General Fund	\$22,178,994	52.0%
Special Fund	10,903,632	25.5%
Federal Fund	3,671,686	8.6%
Reimbursable Fund	<u>5,929,091</u>	13.9%
<b>Total</b>	<b>\$42,683,403</b>	

Source: State financial and personnel records

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

Our audit included a review to determine the status of the two findings contained in our preceding audit report dated March 8, 2019. We determined that OAG satisfactorily addressed these findings.

# Findings and Recommendations

## Case Management System

### Background

In June 2017, the Office of the Attorney General (OAG) procured a contract for itself and the State's Office of the Public Defender (OPD) for case management systems. Although procured under a single contract, the vendor was required to provide two separate systems for the functionality required by each office. Each office was responsible for monitoring the deliverables for its system.<sup>1</sup> With respect to OAG, the system was to track and manage criminal and civil litigation and non-litigation matters critical to the mission of OAG, such as investigations, research, appeals, and consumer complaints. This case management system will consolidate various existing OAG tracking systems, spreadsheets, word processing files, and other manual processes currently being used.

According to the contract, OAG's costs for system implementation and periodic charges (software use and licensing, and maintenance) during the four year base contract period totaled approximately \$2 million, and periodic charges for two 2-year renewal options totaled approximately \$1.6 million.<sup>2</sup> According to OAG's records, payments to the vendor totaled \$914,000 as of August 2022.

### Finding 1

**OAG did not adequately monitor certain critical components of the case management system contract to ensure that all critical deliverables were received. As of September 2022, the system had not been fully implemented, and we noted that certain payments were not made in accordance with the contract.**

### Analysis

OAG did not adequately monitor certain critical components of this contract. Specifically, OAG did not receive required critical scheduling and planning documents from the contractor. As of September 2022, the system had not been fully implemented, and we noted that certain payments were not made in accordance with the contract.

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<sup>1</sup> The monitoring of deliverables for the Office of the Public Defender will be subject to review during that audit.

<sup>2</sup> Since the base period ended June 2021, OAG has exercised the first 2-year renewal option.

### Critical Scheduling and Planning Documents Were Not Received

OAG did not receive critical scheduling and planning documents, which significantly restricted its ability to monitor the contractor's progress and completion dates. For example, OAG did not receive a detailed project schedule or a deliverable description and schedule, which were required by the contract to be submitted within 10 days of OAG's notice to proceed. These schedules were to identify tasks, task estimates, and the proposed submission due date and frequency of each deliverable. Similarly, a contractually required implementation plan documenting the effort and resources necessary to fully implement the system was not received by OAG. The due date for the plan was to be established in the aforementioned project schedule. As a result, there was no formal documentation of when deliverables were to be received and the project completed.

### Case Management System Was Not Fully Implemented

We were advised by OAG that, as of September 2022, approximately five years after OAG entered into the contract, system implementation was still not complete for two of the four core divisions as intended. The vendor's financial proposal and schedule<sup>3</sup> provided that implementation would be complete by year two of the four-year base period. We further noted that OAG did not disclose to the Board of Public Works (BPW) that the system was not fully implemented when it requested approval for the first renewal option in May 2021.

### Payments Were Not Made in Accordance With the Contract

Our review of five of the seven payments made between July 2018 and August 2021 totaling approximately \$911,000 (out of total payments of \$914,000) disclosed all five invoices were not billed in accordance with the contract. Specifically, two invoices for implementation costs totaling \$600,000 were paid in July 2018, even though the contract provided that no implementation costs were to be paid until the system was fully implemented. In addition, the remaining three invoices for user license fees for the case management system totaling \$311,000 were not billed in accordance with contract rates, and there was no contract modification to justify the different billing rates used. Specifically, OAG paid a higher user license rate for one invoice paid in August 2019 resulting in a potential overpayment of \$10,000. For the other two invoices paid in April and August of 2021, OAG paid a lower user license rate resulting in a potential underpayment of \$86,000 to the contractor.

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<sup>3</sup> This schedule was submitted as part of the contractor's bid, and would have been superseded by the aforementioned missing critical scheduling and planning documents.



## **Recommendation 1**

**We recommend that OAG**

- a. ensure that all required scheduling and planning documents are received and use those documents to monitor the receipt of deliverables and contract progress,**
- b. notify the BPW that the system had not been fully implemented prior to the contract renewal,**
- c. ensure that payments are made in accordance with contract terms, and**
- d. review all payments to the contractor and determine the full extent of any overpayments or underpayments and take appropriate action.**

## **Payroll**

### **Finding 2**

**OAG did not ensure all outstanding payroll errors and discrepancies were resolved, and that adjustments to employee leave balances were subject to independent review and approval.**

### **Analysis**

OAG did not ensure all outstanding payroll errors and discrepancies were resolved, and that adjustments to employee leave balances were subject to independent review and approval.

#### Payroll Discrepancies Were Not Resolved

OAG did not investigate and resolve all payroll discrepancies identified on error reports generated from the State's Statewide Personnel System (SPS). Although OAG generated and reviewed these reports each pay period prior to submitting its payroll to the Department of Budget and Management's Office of Personnel Services and Benefits (OPSB) for processing and shortly after submitting its payroll, it did not continue to generate the reports in subsequent pay periods after the payroll was processed to identify and resolve any unresolved errors and discrepancies as directed by OPSB.

SPS generates several reports to help State agencies identify, investigate, and correct payroll errors and other discrepancies, such as employee timesheets with no time entered, submitted, or approved. If errors and discrepancies are not resolved by the deadline for submission to OPSB, the payroll must still be submitted and processed, and agencies must go back and address any unresolved items.

We reviewed one error report as of July 12, 2022 that identifies employee timesheets related to pay periods ending between January 1, 2021 and June 15, 2022 with entries that were never submitted for supervisory approval. The report indicated that there were 24 employees with 553 hours that had not been submitted for supervisory approval. Our review of four of these employees disclosed 163 un-submitted hours that had remained unresolved for between 8 and 12 months.<sup>4</sup> These four employees were paid \$6,906 for those 163 hours. OAG reviewed the four employees after we brought them to its attention. Two of the employees did not appear and two employees did appear on error reports generated by OAG shortly after the pay period had ended. However, OAG did not continue to generate the reports in subsequent pay periods after the payroll was processed to identify and resolve any errors as directed by OPSB, such as the two employees who did not appear on the aforementioned reports originally generated by OAG.

#### Leave Balance Adjustments Were Not Reviewed

Adjustments to employee leave balances were not adequately reviewed for propriety. Although supervisory personnel approved adjustments prior to recording on the automated system, available system output reports were not reviewed to ensure that only authorized adjustments were processed. Consequently, an invalid adjustment could be recorded on the system without detection.

Our test of 12 adjustments processed for 5 employees between June 2020 and February 2022<sup>5</sup> that increased leave balances by 5,787 hours, disclosed one increase of 326 hours that was a duplicate of an adjustment that had already been made. OAG personnel were not aware of the duplicate until we brought it to their attention. Between January 2021 and June 2022, OAG processed 222 leave adjustments that increased employee leave balances by approximately 37,000 hours.

#### **Recommendation 2**

##### **We recommend that OAG**

- a. develop procedures to ensure that all outstanding payroll discrepancies are resolved, including those noted in this finding; and**
- b. review available output reports of leave adjustments processed, at least on a test basis, to ensure that only authorized adjustments have been processed, and correct the duplicate adjustment we noted.**

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<sup>4</sup> We selected employees to review based on time between the date the report was run and the pay period with no time submitted as well as number of hours not submitted.

<sup>5</sup> We selected adjustments based on the materiality of all adjustments related to an employee as well as one adjustment that appeared to be an adjustment recorded twice.

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

We have conducted a fiscal compliance audit of the Office of the Attorney General (OAG) for the period beginning May 9, 2018 and ending June 15, 2022. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine OAG's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included procurements and disbursements, cash receipts, special funds, non-budgeted funds, and payroll. We also determined the status of the findings contained in our preceding audit report.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of May 9, 2018 and ending June 15, 2022, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of OAG's operations. 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.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data) and the State's Central Payroll Bureau (payroll data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these sources were sufficiently reliable for the purposes the data were used during this audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

OAG's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations, including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to OAG, were considered by us during the course of this audit.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

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

OAG's response to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of

the Annotated Code of Maryland, we will advise OAG regarding the results of our review of its response.

# APPENDIX

**ANTHONY G. BROWN**  
*Attorney General*



**CANDACE MCLAREN LANHAM**  
*Chief of Staff*

**CAROLYN A. QUATTROCKI**  
*Deputy Attorney General*

## STATE OF MARYLAND OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.  
410-576-6447

WRITER'S DIRECT DIAL NO.  
410-576-6442

May 23, 2023

**Via e-mail**

Gregory A. Hook, CPA  
Legislative Auditor  
Department of Legislative Services  
The Warehouse at Camden Yards  
351 West Camden Street, Suite 400  
Baltimore, MD 21201  
[response@ola.state.md.us](mailto:response@ola.state.md.us)

Dear Mr. Hook,

Thank you for your letter regarding the draft audit report for the Office of the Attorney General (OAG) for the period beginning May 9, 2018 and ending June 15, 2022. Attached is the OAG's response to your report. We would like to thank your staff for their professionalism in conducting this audit.

Should you need additional information or clarification, please contact Beverly Pivec, Director of Administration by email at [bpivec@oag.state.md.us](mailto:bpivec@oag.state.md.us) or by phone at 410-576-6442.

Sincerely,

A handwritten signature in black ink that reads "AG Brown".

Anthony G. Brown

# Office of the Attorney General

## Agency Response Form

### Case Management System

#### Finding 1

OAG did not adequately monitor certain critical components of the case management system contract to ensure that all critical deliverables were received. As of September 2022, the system had not been fully implemented, and we noted that certain payments were not made in accordance with the contract.

We recommend that OAG

- a. ensure that all required scheduling and planning documents are received and use those documents to monitor the receipt of deliverables and contract progress,
- b. notify the BPW that the system had not been fully implemented prior to the contract renewal,
- c. ensure that payments are made in accordance with contract terms, and
- d. review all payments to the contractor and determine the full extent of any overpayments or underpayments and take appropriate action.

Agency Response		
<b>Analysis</b>		
<b>Please provide additional comments as deemed necessary.</b>		
<b>Recommendation 1a</b>	Agree	<b>Estimated Completion Date:</b> 2/9/2022
<b>Please provide details of corrective action or explain disagreement.</b>	The OAG has assigned a new Project Manager who is working closely with the DoIT Oversight group to work on the scheduling and planning documents.	
<b>Recommendation 1b</b>	Agree	<b>Estimated Completion Date:</b> 6/9/2023
<b>Please provide details of corrective action or explain disagreement.</b>	We are in the process of renewing the contract and will notify BPW that the system is not fully implemented.	
<b>Recommendation 1c</b>	Agree	<b>Estimated Completion Date:</b> 6/30/2023

# Office of the Attorney General

## Agency Response Form

<b>Please provide details of corrective action or explain disagreement.</b>	We will make the appropriate payments in accordance with the contract terms.	
<b>Recommendation 1d</b>	Agree	<b>Estimated Completion Date:</b> <b>6/30/2023</b>
<b>Please provide details of corrective action or explain disagreement.</b>	We will review all payments to the contractor and determine the full extent of any overpayments or underpayments and take appropriate action.	



# Office of the Attorney General

## Agency Response Form

### Payroll

**Finding 2**  
**OAG did not ensure all outstanding payroll errors and discrepancies were resolved, and that adjustments to employee leave balances were subject to independent review and approval.**

We recommend that OAG

- a. develop procedures to ensure that all outstanding payroll discrepancies are resolved, including those noted in this finding; and
- b. review available output reports of leave adjustments processed, at least on a test basis, to ensure that only authorized adjustments have been processed, and correct the duplicate adjustment we noted.

Agency Response			
<b>Analysis</b>			
<b>Please provide additional comments as deemed necessary.</b>	The OAG generates and reviews reports from the State’s Statewide Personnel System (SPS) and sends emails to employees and their supervisors who have no time entered, unsubmitted time or unapproved time. These emails are sent at least two times during the week that timesheets are due.		
<b>Recommendation 2a</b>	Agree	<b>Estimated Completion Date:</b>	Ongoing
<b>Please provide details of corrective action or explain disagreement.</b>	We agree with this recommendation. We will continue to generate and review reports from SPS and send emails to employees and their supervisors who have no time entered, unsubmitted time or unapproved time. We will continue to work with supervisors until all timesheets are completed and approved for each pay period.		
<b>Recommendation 2b</b>	Agree	<b>Estimated Completion Date:</b>	Ongoing
<b>Please provide details of corrective action or explain disagreement.</b>	The OAG has established procedures for reviewing leave adjustments to ensure they are processed correctly. We will also review any available report of leave adjustments processed to ensure that only authorized adjustments have been processed. The duplicate adjustments noted have been corrected.		

AUDIT TEAM

**Adam J. Westover, CPA**  
Audit Manager

**Patrick J. Cavanaugh, CPA**  
Senior Auditor

**Tari J. Covington**  
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