



Office of the Auditor General

Investigative Audit Report

Michigan Department of Health and Human Services' Selected Contracting Practices Within the Lead Safe Home Principal Unit

June 2023

State of Michigan Auditor General
Doug A. Ringler, CPA, CIA

The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general may make investigations pertinent to the conduct of audits.

Article IV, Section 53 of the Michigan Constitution



OAG

Office of the Auditor General

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Doug A. Ringler, CPA, CIA
Auditor General

June 20, 2023

Ms. Elizabeth Hertel, Director
Michigan Department of Health and Human Services
South Grand Building
Lansing, Michigan

Dear Ms. Hertel:

Consistent with our standard practices upon completing an investigative audit, we are issuing our investigative audit report on the Michigan Department of Health and Human Services' Selected Contracting Practices Within the Lead Safe Home Principal Unit.

Copies of this report are being forwarded to various relevant entities and legislative committees. Also, the report may be viewed on our public Web site at audgen.michigan.gov.

Sincerely,

Doug Ringler
Auditor General

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EXECUTIVE SUMMARY

BACKGROUND

The Office of the Auditor General's (OAG's) Fraud Investigative Services Team investigated an allegation that Lead Safe Home Principal Unit (LSHPU) employees provided unfair advantages to lead remediation companies, with whom they had conflicts of interest, during the bid letting and contract management processes.

INVESTIGATION CONCLUSIONS

1. We did not substantiate that LSHPU employees provided unfair advantages to lead remediation companies through bid letting or contract management processes.
2. We identified opportunities for LSHPU to strengthen its internal control over bid letting and contract management to ensure it sufficiently addresses employee conflicts of interest.

The issues cited in this report represent opportunities for the Michigan Department of Health and Human Services (MDHHS) to clarify and improve its conflict of interest risk mitigation procedures to help ensure LSHPU consistently follows applicable State, federal, and internal MDHHS bid letting and contract management requirements. MDHHS should continue to enhance its procedures and monitor the activities of LSHPU staff with conflicts. MDHHS's continued efforts will help ensure LSHPU awards and manages lead remediation contracts in a fair, competitive, and transparent manner.

MDHHS's response to the conditions identified in this report is included on page 10.

BACKGROUND FOR OAG INVESTIGATION, INVESTIGATION ACTIVITIES, INVESTIGATION CONCLUSIONS, AND AGENCY RESPONSE

BACKGROUND

The OAG received a complaint alleging an LSHPU employee provided unfair advantages during the bid letting and contract management processes to a prequalified lead remediation company (Company A) owned by the employee's spouse.

The complaint also alleged unfair advantages related to an MDHHS regional field consultant (RFC) writing bid specifications, approving bid amounts, and overseeing work on lead remediation contracts awarded to a company (Company B) owned by a relative of the RFC.

LSHPU assists low- and moderate-income families and rental property owners in making their homes safe for children and pregnant mothers. LSHPU does so by identifying and abating lead hazards in accordance with the federal Residential Lead-Based Paint Hazard Reduction Act of 1992 and other authoritative guidance.

LSHPU reported completing 1,133 lead remediation projects between January 1, 2018 and May 31, 2022, totaling approximately \$39 million. LSHPU awarded 166 (14.7%) and 30 (2.6%) of these contracts to Companies A and B, respectively, totaling approximately \$6.8 million (17.3%) and \$566,000 (1.4%), respectively.

Pursuant to the Auditor General's constitutional and statutory authority to conduct post audits of financial transactions and make investigations pertinent to the conduct of audits, the OAG initiated a limited scope, investigative audit of these allegations in May 2022.

INVESTIGATION ACTIVITIES

Our investigation activities consisted primarily of inquiries and the examination of selected bid letting and contract management records and other documentation. This report does not constitute an audit or attestation engagement conducted in accordance with generally accepted government auditing standards.

We reviewed applicable State and federal laws, MDHHS policies and procedures related to LSHPU, and other authoritative guidance, including State and federal procurement and ethics laws. We interviewed LSHPU management and staff to obtain an understanding of internal control over project bid letting, award, payment, and oversight processes. We conducted various analyses of program-wide and contractor-specific project awards and change orders. We also examined e-mails from January 2018 through June 2022 for selected LSHPU employees and reviewed completed disclosure of interest forms. We judgmentally selected and

reviewed 22 project awards and related change orders made to Companies A and B.

INVESTIGATION CONCLUSIONS

1. We did not substantiate that LSHPU employees provided unfair advantages to lead remediation companies, with whom they had conflicts of interest, through bid letting or contract management processes.

MDHHS was aware of the conflict of interest involving the spouse of the owner of Company A since at least 2017, when it promoted them to a managerial position within LSHPU. With this promotion, MDHHS established procedures to mitigate the related risks. These procedures required all LSHPU employees to disclose conflicts of interest, precluded the employees with conflicts from performing certain bid letting and administrative functions, created a bid submission protocol to protect the confidentiality of bid information, and required administrative review of all contract payment authorizations and modifications.

In addition, although RFCs developed project work specifications and confirmed to LSHPU selected bids were within their initial cost estimates prior to contract award, they did not otherwise participate in the bid letting process. MDHHS required all contractors interested in submitting a bid for a project to attend an in-person visual inspection of the property, and the RFCs provided all prospective contractors with the project specifications, thereby mitigating the risk of providing a contractor an unfair competitive advantage in the bid process. MDHHS was aware of the subject RFC's relationship with Company B at least since February 2018, at which time it removed the RFC from oversight on projects involving Company B.

2. We identified opportunities for LSHPU to strengthen its internal control over bid letting and contract management practices to help ensure it consistently and sufficiently addresses employee conflicts of interest.

State and federal requirements and MDHHS administrative guidance prohibit LSHPU employees from engaging in supervisory, administrative, and transactional activities with businesses in which they have a real or apparent personal or financial interest.

LSHPU's bid letting and contract management policies and procedures sometimes provided conflicting or insufficient guidance and allowed for staff discretion that could undermine efforts to address conflicts of interest.

To mitigate conflict of interest risks, it is imperative that the related procedures and internal control be clear and

comprehensive to address all State, federal, and MDHHS requirements and that staff consistently adhere to them.

LSHPU should consider enhancing its policies and procedures to address the following improvement opportunities:

a. Bid Letting and Contract Management

- (1) Ensure LSHPU staff record the receipt date and time and establish an appropriate chain of custody for bids not e-mailed. In addition, LSHPU should ensure bidders clearly identify the project in the subject lines when submitting bids via e-mail so it is not necessary for an LSHPU employee to open the e-mail before the deadline.
- (2) Establish and communicate bid opening dates and times to ensure compliance with federal regulations and promote transparency.
- (3) Specify the circumstances in which LSHPU may accept or reject bids, when contractors may rescind bids, and when LSHPU needs to rebid a project.
- (4) Require RFCs to document and provide their project cost estimates to LSHPU procurement staff prior to bid opening to provide for an independent verification that the winning bid amount is within expectations.

b. Employee Conflict of Interest Disclosures

- (1) Ensure LSHPU submits required disclosures to federal awarding agencies of all conflicts of interest.
- (2) Require LSHPU employees to disclose all known conflicts of interest at least annually.

c. Permitted and Prohibited Employee Actions and Monitoring

- (1) Ensure policies and procedures sufficiently describe prohibited actions, including those that may provide inference for service or favor, for employees when dealing with companies with whom they have a conflict of interest.
- (2) Enhance administrative monitoring over bid letting and contract management to ensure controls are effective and consistently followed by staff.

**AGENCY
RESPONSE**

MDHHS provided us with the following response:

MDHHS agrees with the opportunities identified by OAG to strengthen its internal control over bid letting and contract management practices to ensure it consistently and sufficiently addresses employee conflicts of interest.

During the investigation, MDHHS began evaluating policies and procedures and has already made significant improvements. MDHHS plans to implement programmatic changes for each suggested opportunity for improvement to ensure risks of employee conflict of interest are mitigated.



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