



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued January 6, 2023

Massachusetts Rehabilitation Commission

For the period July 1, 2018 through June 30, 2021





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January 6, 2023

Ms. Toni Wolf, Commissioner
Massachusetts Rehabilitation Commission
600 Washington Street
Boston, MA 02111

Dear Ms. Wolf:

I am pleased to provide this performance audit of the Massachusetts Rehabilitation Commission. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2018 through June 30, 2021. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to the Massachusetts Rehabilitation Commission for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular watermark.

Suzanne M. Bump
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

CMR	Code of Massachusetts Regulations
COVID-19	2019 coronavirus
CTR	Office of the Comptroller of the Commonwealth
DCAMM	Department of Capital Asset Management and Maintenance
EOTSS	Executive Office of Technology Services and Security
ICP	internal control plan
MMARS	Massachusetts Management Accounting and Reporting System
MRC	Massachusetts Rehabilitation Commission
OFMB	Office of Financial Management and Budget
OJT	on-the-job training
OSA	Office of the State Auditor
OSD	Operational Services Division

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Massachusetts Rehabilitation Commission (MRC) for the period July 1, 2018 through June 30, 2021.

In this performance audit, we determined whether (1) MRC maintained written agreements for on-the-job training (OJT) as required by Section 6.07(12) of Title 107 of the Code of Massachusetts Regulations; (2) MRC checked the debarred vendor lists maintained by various state and federal agencies (see [Appendix](#)) before awarding or renewing the vendor contracts as required by the “State Finance Law and General Contract Requirements” policy, which was jointly issued by the Office of the Comptroller of the Commonwealth (CTR) and the state Operational Services Division; (3) MRC updated its internal control plan to address the 2019 coronavirus (COVID-19) pandemic as required by CTR’s guidance; and (4) MRC ensured that employees managing COVID-19 funds received cybersecurity awareness training in accordance with the Executive Office of Technology Services and Security’s Information Security Risk Management Standard IS.010.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 8	MRC did not ensure that it had written employment agreements for all individuals receiving its OJT services.
Recommendation Page 8	MRC should establish monitoring controls to ensure that it executes formal written employment agreements between MRC, employers, and the participating individuals and maintains these agreements in the individuals’ consumer records.
Finding 2 Page 9	MRC made payments totaling \$497,493 to a vendor that was debarred and therefore not eligible to receive these payments.
Recommendation Page 10	MRC should establish monitoring controls to ensure that MRC staff members check the debarment status of contractors before awarding or renewing contracts. These controls should include a requirement to document the monitoring.

OVERVIEW OF AUDITED ENTITY

The Massachusetts Rehabilitation Commission (MRC), established on August 6, 1956 under Section 74 of Chapter 6 of the Massachusetts General Laws, is a state agency within the Executive Office of Health and Human Services. According to its website, MRC “helps individuals with disabilities to live and work independently. MRC is responsible for Vocational Rehabilitation, Community Living, and Disability Determination for federal benefit programs.”

MRC has five divisions: Administration, including Information Technology; Office of Financial Management and Budget (OFMB), including Human Resources; Community Living; Disability Determination Services; and Vocational Rehabilitation.

MRC Funding

MRC received funding of \$193,060,524 in fiscal year 2019; \$217,267,616 in fiscal year 2020; and \$189,699,609 in fiscal year 2021. It is funded through state appropriations, federal grants, trusts, and interdepartmental service agreements with other state agencies. The table below outlines the specific amounts allocated to MRC’s divisions for fiscal years 2019, 2020, and 2021.

Division	Fiscal Year 2019	Fiscal Year 2020*	Fiscal Year 2021*
Community Living	\$ 76,951,057	\$ 83,379,638	\$ 68,109,834
Vocational Rehabilitation	66,147,279	83,789,366	73,089,058
Disability Determination Services	49,193,646	49,662,098	48,000,000
Administration and OFMB	768,542	436,513	500,716
Total	<u>\$ 193,060,524</u>	<u>\$ 217,267,616</u>	<u>\$ 189,699,609</u>

* The \$1 variance between the total amount of this column and the sum of these items is due to rounding.

On-the-Job Training Services

MRC provides on-the-job training services to secure long-term employment for individuals with disabilities. According to Section 6.07(12) of Title 107 of the Code of Massachusetts Regulations,

The term on-the-job training services means the occupational skills training provided by an employer to an individual to enable the individual to develop the skills necessary for employment in a specific occupation or trade. A formal written agreement between the Commission, the employer, and the individual must specify the training to be provided, the duration of the program, and the hourly rate to be paid by the Commission to the employer for on-the-job training services. The formal agreement must also stipulate that the employer will pay wages and benefits to the individual commensurate with the job duties and that, after successful completion of the training,

the employer will make a reasonable effort to continue the individual in employment. The employer will be paid for supervised skill development, which is beyond the supervision customarily provided to an employee.

Vendor Contracts

Massachusetts state agencies or departments, such as MRC, award contracts to vendors for various goods and services. The Office of the Comptroller of the Commonwealth (CTR) and the Operational Services Division (OSD) jointly issued a policy, “State Finance Law and General Contract Requirements,” which identifies the minimum contracting requirements that all state departments must follow. One of these requirements dictates that state agencies or departments must check state and federal debarred vendor lists (see [Appendix](#)) to ensure that they are not awarding a contract to a debarred vendor.

Debarment

Vendors or contractors may be debarred or suspended—by the federal government or the state—from being awarded public contracts for several reasons. According to OSD’s website, these reasons include, but are not limited to, “fraud, collusion, attempts to improperly influence a bid process or indictment by the bidder/contractor.” As such, there are various lists of debarred vendors.

Do Not Pay

Do Not Pay is a free online service, offered by the United States Department of the Treasury, available to federal agencies and state agencies with federally funded programs. The service helps prevent and detect improper payments by allowing these agencies to check vendors’ eligibility with many data sources at one time before issuing payments or awards. The United States Department of the Treasury developed Do Not Pay because of an executive memorandum the President issued on June 18, 2010, which directed agencies to check multiple data sources before paying a vendor.

CTR’s Pandemic Response Guidance

On September 30, 2020, CTR provided guidance in response to the 2019 coronavirus (COVID-19) pandemic for state agencies. The guidelines help state agencies that are experiencing significant changes identify their goals, objectives, and risks associated with COVID-19. Objectives can include telework; return-to-office plans; risk assessments of the impact of COVID-19 on department operations; changes to the business process; safety protocols for employees and visitors; and tracking of COVID-19-related awards and expenditures, which are tracked separately from other federal, state, and local expenditures.

Cybersecurity Awareness Training

The Executive Office of Technology Services and Security has established policies and procedures that apply to all Commonwealth agencies. Its Information Security Risk Management Standard IS.010 requires that all Commonwealth personnel be trained annually for cybersecurity awareness. Section 6.2 of the document states, “The objective of the Commonwealth information security training is to educate users on their responsibility to help protect the confidentiality, availability and integrity of the Commonwealth’s information assets.”

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of certain activities of the Massachusetts Rehabilitation Commission (MRC) for the period July 1, 2018 through June 30, 2021.

We conducted this performance audit 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.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did MRC maintain written agreements for on-the-job training (OJT) in accordance with Section 6.07(12) of Title 107 of the Code of Massachusetts Regulations (CMR)?	No; see Finding <u>1</u>
2. Did MRC check the debarred vendor lists before awarding or renewing a contract to ensure that it does not award a contract to a debarred vendor, as required by the "State Finance Law and General Contract Requirements" policy, which was jointly issued by the Office of the Comptroller of the Commonwealth (CTR) and the state Operational Services Division?	No; see Finding <u>2</u>
3. Did MRC update its internal control plan (ICP) to address the 2019 coronavirus (COVID-19) pandemic in accordance with CTR's "COVID-19 Pandemic Response Internal Controls Guidance," dated September 30, 2020?	Yes
4. Did MRC employees managing COVID-19 funds complete required cybersecurity awareness training in accordance with Sections 6.2.3 and 6.2.4 of the Executive Office of Technology Services and Security's (EOTSS's) Information Security Risk Management Standard IS.010?	Yes

To achieve our objectives, we gained an understanding of the internal controls related to the objectives by reviewing applicable policies and procedures and interviewing MRC officials.

To obtain sufficient, appropriate evidence to address our audit objectives, we performed the following audit procedures.

To determine whether MRC maintains OJT written agreements as required by 107 CMR 6.07(12), we obtained and inspected OJT written agreements for all 75 individuals who received OJT services during the audit period. In addition, we verified that the written agreements were approved by an MRC area director.

To determine whether MRC checked the debarred vendor lists before awarding or renewing the contracts as required by the “State Finance Law and General Contract Requirements” policy, we obtained preliminary data analysis from OSA’s Data Analytics Unit, which identified 46 potentially debarred vendors. We selected a judgmental sample of 10 vendors from the population of 46 potentially debarred vendors that were paid by MRC during the audit period. We inspected the contracts MRC had with these vendors to determine whether the contracts were awarded or renewed while the vendors were potentially debarred. Further, we reviewed the Do Not Pay list and various debarment lists (such as the federal government’s Excluded Parties List System and MassHealth’s “Suspended/Excluded MassHealth Providers” list) to verify that all 46 potentially debarred vendors were actually debarred.

We used nonstatistical sampling methods and therefore did not project the results of our testing to the population.

To determine whether MRC updated its ICP to address the COVID-19 pandemic in accordance with CTR’s “COVID-19 Pandemic Response Internal Controls Guidance,” dated September 30, 2020, we inspected MRC’s ICP, fiscal year 2020 and fiscal year 2021 Internal Control Questionnaires, and return-to-work plan.

To determine whether MRC employees who managed COVID-19 funds during the audit period received cybersecurity awareness training in accordance with EOTSS’s Information Security Risk Management Standard IS.010, we inspected cybersecurity awareness training completion certificates for all 19 employees who managed COVID-19 funds.

Data Reliability Assessment

MRC officials provided a list of all individuals who received OJT services during the audit period. We determined the reliability of the list by performing validity and integrity tests, including testing for blank fields and scanning for duplicate records. We also selected a judgmental sample of 20 hardcopy consumer records and traced information (such as client identification number, first name, and last name) from them to the list for agreement. Additionally, we selected a judgmental sample of 20 client identification

numbers, first names, and last names from the list and traced them to hardcopy consumer records for agreement.

MRC uses the Massachusetts Management Accounting and Reporting System (MMARS) to report its expenses to CTR. We determined the reliability of the data obtained from MMARS by relying on the work OSA performed in two separate projects completed in 2018 and 2022, which tested certain information system controls in MMARS. These selected system controls included access controls, application controls, configuration management, contingency planning, and segregation of duties. As part of our current audit, we tested personnel security controls. In addition, we performed validity and integrity tests, including testing for blank fields, scanning for duplicate records, and looking for dates outside the audit period.

Based on the results of the data reliability procedures described above, we determined that the data obtained were sufficiently reliable for the purposes of our audit.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Massachusetts Rehabilitation Commission did not ensure that it had written employment agreements for all individuals receiving its on-the-job training services.

During our audit period, the Massachusetts Rehabilitation Commission (MRC) did not ensure that it had written employment agreements for all individuals receiving its on-the-job training (OJT) services. We determined that 13 of the 75 individuals who received MRC's OJT services did not have formal written employment agreements between MRC, themselves, and their employers.

If MRC does not ensure that all individuals receiving MRC's OJT services have the required formal written employment agreements, it will not be able to ensure that the individuals' employers meet all of the OJT requirements established by state regulations.

Authoritative Guidance

According to Section 6.07(12) of Title 107 of the Code of Massachusetts Regulations,

A formal written agreement between [MRC], the employer, and the individual [receiving OJT services] must specify the training to be provided, the duration of the program, and the hourly rate to be paid by the Commission to the employer for on-the-job training services.

Reasons for Issue

MRC had not established monitoring controls to ensure that it executed formal written employment agreements between MRC, employers, and the participating individuals or maintained these agreements in the individuals' consumer records.

Recommendation

MRC should establish monitoring controls to ensure that it executes formal written employment agreements between MRC, employers, and the participating individuals and maintains these agreements in the individuals' consumer records.

Auditee's Response

MRC recognizes that general case management internal controls were insufficient to guarantee each On-Job-Training (OJT) participant had completed a separately maintained, formal written employment agreement in accordance with required procedures. MRC has implemented measures to ensure written employment agreements are completed for all individuals receiving its OJT

services and will establish monitoring controls to ensure that it executes the required formal written employment agreements between MRC, employers, and the participating individuals. MRC will ensure it maintains these agreements in the individuals' consumer records by establishing verification controls to ensure agreements with employers and participants are documented and are maintained. This includes:

- *MRC will review its OJT Policy and Procedures and will create a checklist as a guide to all the OJT procedures including required documentation and record keeping related to the OJT agreement*
- *MRC will provide training on OJT to all [Vocational Rehabilitation, or VR] staff during an all-VR staff meeting to occur no later than April 2023. MRC will post the OJT policy and training materials on its intranet, "The BEAT" for future reference.*
- *Annually, MRC will randomly select and review 40% of cases with OJTs specifically to ensure cases have the required written employment agreement. These cases will be identified for review by Analytics and Quality Assurance (AQA). The list will be submitted to the District Directors by the Assistant Commissioner of VR, requesting a review and report of review findings.*

Auditor's Reply

Based on its response, MRC is taking measures to address our concerns on this matter.

2. MRC made payments totaling \$497,493 to a vendor that was debarred and therefore not eligible to receive these payments.

We found that during our audit period, from July 1, 2018 through March 22, 2021, MRC contracted with, and made payments totaling \$497,493 to, a vendor that was on the Massachusetts Department of Industrial Accidents' debarment list. The vendor was on the list for a period of three years from March 22, 2018 through March 22, 2021 because of a "Stop Work Order" regarding unsafe conditions and was therefore not eligible to receive these payments.

Contracting with a vendor that has been debarred could result in MRC receiving substandard goods or services and may also result in MRC having to reimburse the federal government for any federal funds it used to pay debarred vendors.

Authoritative Guidance

In July 2004, the state's Operational Services Division and the Office of the Comptroller of the Commonwealth jointly issued a policy entitled "State Finance Law and General Contract Requirements," which identifies "the key state finance law and the minimum state accounting and contracting

requirements related to purchases made by all state Departments in all branches of state government.”

This policy explains that state finance law requires the following:

All departments must check the debarred vendor lists below before awarding or renewing a contract in order to ensure that they are not awarding a contract to a debarred vendor. No Department shall knowingly accept a response of award a contract to any Contractor, or approve a subcontract to any party which is currently subject to any state of federal debarment order or determination. . . .

A Procuring Department shall disqualify any response that the Department determines to be unresponsive, including, but not limited to: . . . (d) Responses submitted by a Bidder, or which identify a subcontractor, currently subject to any State or federal debarment order or determination.

This policy identifies websites that list debarred vendors that each state agency should check.

Reasons for Issue

MRC senior management stated that the Division of Capital Asset Management and Maintenance (DCAMM) had worked on its behalf in securing this contract and as such, it relied on DCAMM's due diligence to ensure that this vendor was not on the debarment lists. However, because MRC was a signatory to the contract as the agency using and paying for the services from this vendor, it should have ensured that DCAMM followed all of the required procurement procedures. In addition, MRC had not established monitoring controls over this activity, including a requirement to document the monitoring, to ensure that DCAMM performed this analysis.

Recommendation

MRC should establish monitoring controls to ensure that MRC staff members check the debarment status of contractors before awarding or renewing contracts. These controls should include a requirement to document the monitoring.

Auditee's Response

MRC respectfully objects to the findings of the Office of the State Auditor as described in Finding #2. While the audit accurately reflects that MRC acted in reliance on the Division of Capital Asset Management and Maintenance (DCAMM), they erred in their ultimate determination that MRC is the responsible contracting party. In identifying the applicable policy, the finding cites the Operational Services Division (OSD) and the Office of the Comptroller's policy entitled "State Finance Law and General Contract Requirements." The policy, quoted therein, states in relevant part that the "procuring department" must disqualify any bidder that is currently subject to

disbarment. The procuring department in this instance is DCAMM. MRC, as the "User Agency," signs onto the lease agreement assuring that sufficient program funds are available to support the contract between the parties. Therefore, in accordance with the OSD/Comptroller policy, DCAMM is the procuring department responsible for ensuring disbarred bidders are not selected for award. While MRC shares the Auditor's concerns that the Commonwealth avoids contracting with disbarred vendors, MRC is neither the procuring department nor the oversight agency for DCAMM.

Auditor's Reply

While MRC is correct in its assertion that DCAMM is the procuring department in this instance, this does not absolve MRC of its duty to ensure that debarred bidders are not ultimately awarded the contracts on which they bid. As signatory parties, both MRC and DCAMM are required to check the debarred vendor lists, and both failed to comply with the above-referenced policy and regulatory requirements to check the debarred vendor lists.

Appendix

Debarment Lists

In July 2004, the state's Operational Services Division and the Office of the Comptroller of the Commonwealth jointly issued the policy "State Finance Law and General Contract Requirements," which states the following:

All departments must check the debarred vendor lists below before awarding or renewing a contract in order to ensure that they are not awarding a contract to a debarred vendor.

No Department shall knowingly accept a response of award a contract to any Contractor, or approve a subcontract to any party which is currently subject to any state of federal debarment order or determination. . . .

The following websites contain lists, which are updated periodically, of businesses, which have been debarred:

- *Federal Government's Excluded Parties List System*
- *[The state] Division of Capital Asset Management and Maintenance's Debarred Contractor's List*
- *Businesses Issued Stop Work Orders by the Department of Industrial Accidents*
- *Office of the Attorney General Debarment List*
- *Contractors Suspended or Debarred by [the Massachusetts Department of Transportation]*