



March 1, 2024

To: Board of Education

Mr. William J. Barnes, Acting Superintendent

I audited the procurement of the new HCPSS transportation service model (model) in 2023. The former Superintendent requested the audit following problems with implementation of the model at the beginning of the school year in August 2023. The audit included a review of HCPSS's compliance with Maryland education procurement law, Board procurement policies, and the Office of Purchasing's Procurement Manual in procuring the model; alignment between the request for proposal and subsequent contracts for the model; and the use of best practices in contract management for the model.

SUMMARY OF RESULTS

Maryland education procurement law does not address school systems' procurement of services such as the model.

HCPSS complied with Board procurement policies and the Office of Purchasing's Procurement Manual. However, HCPSS did not effectively manage the contracts for the model after the contracts were awarded, mostly because best practices for managing such contracts are not included in the Board policies and the Manual and the Office of Student Transportation did not apply the best practices voluntarily. Best practices would include, for example, developing a project timeline with key milestones to manage and control implementation of the model and developing mitigation strategies based on contingencies.

HCPSS can learn from its experience procuring the model and apply the lessons learned to future procurements. This report contains recommendations for HCPSS to (1) revise the primary Board procurement policy and the Procurement Manual to include best practices for contract management; (2) provide formal training to contract managers; and (3) consider the use of outside contract managers for certain large-scale or high-risk procurements.

BACKGROUND

HCPSS implemented the model primarily to support a new school start time initiative.¹ The model included a structure with contracts for regions rather than contracts for separate routes within regions. HCPSS issued a request for proposal (RFP) in October 2022 and awarded two contracts in January 2023 – one contract for three regions with 230 routes to a company from out-of-state with no previous experience with HCPSS, and another contract for one region with 58 routes to a local company with previous experience with HCPSS. The remaining 215 routes (out of 503 total routes) continued to operate under existing contracts with other local contractors.

Implementation of the model failed unexpectedly when the school year began with numerous bus cancelations and significant delays. HCPSS took several steps to examine the failure, including the former Superintendent requesting the Internal Auditor to audit the procurement of the model.²

The audit had the following objectives:

- I. Did HCPSS comply with Maryland education procurement law, Board procurement policies, and the Office of Purchasing's Procurement Manual in acquisition of the model?
- II. Did HCPSS fully align the RFP and subsequent contracts for the model?
- III. Did HCPSS use best practices in contract management for the model?
- IV. Are there recommendations for strengthening procurement based on experience with the model?

The audit focused primarily on key elements of relevant Board procurement policies; the Office of Purchasing's Procurement Manual; procurement documents, including the RFP and contracts for the model; and best practices in contract management. The audit included discussions with the Director of Procurement and Materials Management, the Director of Student Transportation, and other HCPSS staff. The audit also included a review of the HCPSS Transportation Service Delivery Plan/School Start Time Initiative Internal Action Report. The audit did not include discussions with contractors nor address any potential recourse regarding contractors' performance. Additionally, the audit did not cover certain other Office of Student Transportation issues such as, for example, communicating bus numbers and the effectiveness of routing assistance technology.

¹ In addition, the outside consultant working with the Office of Student Transportation on a new school start time initiative and other projects suggested in early 2022 that it was an opportune time to “re-engineer” the student transportation service delivery model, largely because the opportunity to re-engineer a student transportation “structure” typically occurred only as part of a crisis or systemic breakdown.

² In addition to the audit, the Board directed the former Superintendent to initiate an independent review of the transportation system in conjunction with the school start time initiative, and the Superintendent directed the former Interim Policy Manager to conduct an internal action review of the process that led to the transportation problems at the beginning of the school year.

The audit generally covered the period from January 2023 to August 2023, and was conducted from October 2023 to February 2024. The audit was performed in accordance with generally accepted government auditing standards except for peer review.

MARYLAND EDUCATION PROCUREMENT LAW

Maryland education procurement law is governed by Maryland Code, Education Section 5-112. The section applies to procurement of school buildings, improvements, supplies, and equipment. The section does not apply to services such as the model.

BOARD POLICIES AND THE PROCUREMENT MANUAL

HCPSS procurement is governed by Board policies 4050 and 5220 and the Office of Purchasing's Procurement Manual.

Policy 4050

Board Policy 4050, titled Procurement of Goods and/or Services, is the primary directive for all HCPSS procurement. Policy 4050 includes several major provisions including, for example, requiring:

- Formal solicitations and obtaining Board approval for procurements over \$50,000;
- Compliance with federal, state, and local student data privacy protections; and
- A Procurement Manual developed and maintained by the Office of Purchasing.

HCPSS complied with the major provisions of Policy 4050 for the model. For example, HCPSS developed a formal solicitation, presented and obtained Board approval for the contracts based on the lowest costs and most responsive bids, and included information in the contracts regarding the model and relevant pricing for school transportation routes. As discussed in the section below on Alignment Between the RFP and Contracts, it is not clear as to whether the Office of Student Transportation complied with Policy 4050 requirements regarding consultation with the Office of Purchasing on the design process for the model.

Policy 4050 does not explicitly address alignment between RFPs and contracts. Policy 4050 states that program managers are responsible for contractors' performance and that the Director of Procurement and Materials Management/designee will act as a liaison with contractors for any performance issues with contracts. The Policy does not provide any further guidance on contract management or contract performance. The Policy also does not address contract management training for managers, which best practices describe as important for effective contract management.

Policy 5220

Board Policy 5220, titled School Bus Contracts and School Bus Personnel, supplements Policy 4050 primarily through provisions regarding company and driver eligibility and testing, bus mechanical standards, and liability insurance. Policy 5220 also has provisions regarding the reassignment of bus contracts in emergency situations. The Policy describes emergency situations regarding temporary reassignments of school transportation contracts and states that such reassignments do not require prior Board approval. The Policy does not address reassignment of routes within a contract or increased costs of the reassignments.

The Board is considering revising the notification threshold in Policy 4050 to \$100,000 and rolling the reassignment provisions in Policy 5220 into Policy 4050. The Board may wish to clarify requirements for notifying the Board or obtaining Board approval for temporary reassignments of school transportation contracts and routes in the revised Policy 4050, including for reassignments that may increase costs.

Procurement Manual

Board Policy 4050 requires the Office of Purchasing to develop and maintain a Procurement Manual. The Policy requires that the Manual establish uniform procurement guidelines; build public confidence in public procurement; safeguard the integrity of the procurement system and protect against corruption, waste, fraud, and abuse; and address several other objectives. The Manual includes 27 sections and 110 pages of guidance on procurement, including sections on governance, responsibilities, methods, vendor selections, and other subjects.

HCPSS complied with specific requirements in the Manual in contracting for the model. For example, the Office of Student Transportation, working largely with a contractor, developed an extensive RFP with a detailed scope of work and service specifications. In addition, the Office of Purchasing properly convened a committee to evaluate bids received in response to the RFP, ensured the committee only considered criteria that were included in the RFP, and recommended that contracts be awarded to the companies with the lowest cost and most responsive bids.

The Manual does not address alignment between RFPs and contracts. The Manual states that the person named in the contract as the technical representative is the contract manager (the contract named the Director of Student Transportation as the technical representative) and that HCPSS staff are encouraged to provide feedback on contractor performance. The Manual does not provide any further guidance on how staff are to provide feedback on contractor performance and to whom the feedback should be provided. The Manual does not provide any further guidance on contract management.

ALIGNMENT BETWEEN THE RFP AND CONTRACTS

HCPSS awarded contracts to two vendors for the model in January 2023. The contracts included certain provisions described in the RFP for the model, such as, for example, contract prices per respective regions; vehicle type requirements; and standard language regarding issues such as indemnification, student data privacy, and insurance.

The contracts for the model, however, did not include certain provisions and key service specifications described in the RFP. For example, the contracts did not include RFP service specifications and statements that:

- The contracts awarded pursuant to the RFP would be subject to a contract management program overseen by a designated contract manager;
- The program would be a joint, supportive program of contract compliance monitoring and performance measurement;
- The “foundation” of the program would be minimum service levels and standards of performance such as ensuring sufficient drivers, having no more than 2 percent of routes delayed, and reporting all delays to HCPSS within 15 minutes of occurrence; and
- HCPSS would provide contractors with proposed routes no later than 10 business days before the first day of school.

It is not clear as to the extent to which the Office of Student Transportation consulted with the Office of Purchasing during the design process for the model and the RFP, nor is it clear as to the extent to which the Office of Purchasing consulted with the Office of Student Transportation in developing the contracts. It is also not clear as to the extent to which misalignment between the RFP and the contracts prevented the Office of Student Transportation from otherwise using the key service specifications in the RFP in managing or monitoring the contracts.

Policy 4050 requires that the Office of Purchasing be consulted throughout the design process for activities that require the use of contractors. As such, the Policy would have called for the Office of Student Transportation to consult to some extent with the Office of Purchasing during the design process for the model and the RFP. The RFP included many new provisions related to the model which were not included in RFPs for student transportation contracts in the past, including the service specifications above. The Director of Student Transportation shared that the outside consultant working with the Office of Student Transportation on the design of the new school start times helped draft the RFP for the model with Office of Student Transportation oversight and input and may have suggested the new RFP provisions to better ensure successful implementation of the model.

The Procurement Manual provides that the Office of Purchasing is responsible for developing contract documents. However, the Manual does not explicitly address the extent to which the Office should consult with program offices on the development of contracts, including the extent to which contracts should align with related RFPs. The Office of Purchasing wrote the contracts for the model, but it is not clear as to the extent to which the Office of Purchasing consulted with the Office of Student

Transportation in writing the contracts, with the result that the contracts mostly followed standard student transportation contracts in the past and did not include reference to a contract management performance program or many of the service specifications in the RFP which were new.

Better coordination between the Office of Student Transportation and the Office of Purchasing in the design process for the new model might have helped facilitate better alignment between the RFP and the contracts. Better alignment, along with best practices in contract management for the model discussed below, would have provided the Office of Student Transportation with a more structured basis for monitoring and tracking progress on implementing the model and developing effective mitigation strategies based on contingencies.

CONTRACT MANAGEMENT

Procurement does not end with the awarding of a contract. Procurement also includes contract management, which are the activities performed by an organization after it awards a contract to determine how well a contractor performs to meet contract requirements, including the period before service delivery begins. Best practices for contract management include:

- Formally designating a contract manager;
- Developing a formal contract management program with a written project management plan to manage and control implementation, a project timeline with key milestones, and a structured method for measuring progress and performance by both the contract manager and the contractor in achieving those milestones;
- Conducting periodic reviews and providing progress reports on steps taken to ensure successful implementation; and
- Providing formal training on contract management.

Contract management also includes contract *risk* management. Contract risk management is the process of identifying, evaluating, and limiting the exposure to risks associated with contracts; in a sense it involves a strategic assessment of all potential risks an organization may face with a contract, developing a risk management plan with effective mitigation strategies based on contingencies and/or potential triggering events, and monitoring the implementation of those strategies.

The extent of contract risk management should be an important consideration for significant changes in operations and/or large-scale procurements such as for the model. Three high risks for the model, for example, were its use and importance in successfully implementing the new school start time initiative; using an out-of-state contractor with no previous experience with HCPSS; and resolving a historic, nationwide bus driver shortage made worse by the COVID-19 pandemic.

HCPSS Contract Management

The Office of Student Transportation did not formally use the best practices outlined above. For example, the Office did not:

- Formally designate a contract manager, though the Director of Student Transportation appeared to have that role by virtue of indirect reference in the Procurement Manual that the technical representative for the contract is the technical manager for the contract;
- Formally develop a contract management program with a written contract management plan or contract management risk plan that properly considered the change in model and new contractors and any related risks, though the Director said he and his staff met weekly and sometimes daily with the contractors to review progress on the contracts and the steps being taken to implement the model successfully on the first day of school; or
- Develop a written timeline with key milestones and a structured method for measuring HCPSS's progress in providing routes to the contractors or for measuring the contractors' progress and performance, including for example, progress in meeting milestones for hiring drivers, including substitute drivers, and developing effective mitigation strategies based on contingencies.

The Director of Student Transportation did not believe that a formal contract management program would have necessarily identified all the problems with the model at the beginning of the school year.

For example, the RFP included a requirement that the Office provide proposed routes to the contractors no later than 10 business days before the beginning of the school year so that drivers could review and practice the routes and suggest any changes if needed. The Office provided final changes to general education routes and designed some new special education routes as late as 2 days before the school year. The Director did not believe that a formal contract management program would have necessarily identified the risks with the timing of the route information above. (The Director said that he does not believe there was any specific risk with the 70 drivers the largest new contractor flew in from out-of-state the weekend before the school year started and that therefore a formal contract management program would not have addressed that subject.)

As another example, the Director said the Office did not know until about the first day of school that the largest new contractor needed 2 to 3 days to fully upload route information from HCPSS into the contractor's information system and that the delays in doing so might be a factor in problems at the beginning of the school year. The Director did not believe a formal contract management program would have necessarily identified the risks of that issue.

The Director of Student Transportation said the two largest problems with the model at the on the first day of school were drivers for 20 routes for one contractor unexpectedly not showing up for work and unanticipated delays in buses for that contractor leaving its bus lot. The Director did not know whether a formal contract management program would have necessarily identified the risk of the first problem or whether a formal contract management program might have identified the risk of the second problem, such as through a "stress test" of buses leaving the bus lot before the start of the school year.

Workload and Concurrent Initiatives

The Director of Student Transportation said that the Office of Student Transportation did not have sufficient staff to perform its normal myriad duties, and that numerous competing and concurrent initiatives also made it difficult to determine the extent to which the contract management issues above caused or contributed to problems with the model at the beginning of the school year. Those initiatives included, for example, designing routes for the new school start time initiative; making routing adjustments and additions related to the Attendance Area Adjustment Plan for the new high school that opened in fiscal year 2023; reviewing walk-zone changes and appeals; and participating in a mediation process between HCPSS and former student transportation contractors.

Training

Best practices above include providing formal training for all staff involved in contract management.

Policy 4050 requires the Office of Purchasing to develop a formal training program for all HCPSS staff who procure services. The Office of Purchasing has a formal training program for procurement cards. The Office also generally provides basic training for staff who evaluate bid proposals and provides other types of ad hoc guidance and training to staff who request or need it. The Office, however, does not have a formal training program for all staff involved in contract management. Formal training would benefit contract managers, especially those who oversee certain large-scale or high-risk procurements like the model.

Construction Projects

HCPSS may want to consider applying its contract management approach for construction projects to other large-scale or high-risk procurements. The Office of School Construction typically contracts with construction managers outside of HCPSS to help the Office review bids and manage large-scale construction projects and related contracts. The construction managers have specific skills and extensive related construction management experience that the Office uses to help it ensure that bids are appropriate and that projects are completed in accordance with cost, schedule, and design requirements. The construction managers also help the Office resolve contingencies, work order changes, and other unique risks aspects of construction projects and contracts.

The Office of Student Transportation used a contractor to help design the model and draft the RFP, largely because of the significant change in student transportation operations and the importance of the change in supporting the school start time initiative. However, the Office did not use that contractor or any other contractor to help manage the implementation of the model and its related contracts. Using a contract manager outside of HCPSS with specific skill and experience implementing large-scale or high-

risk procurements like the model might have helped the Office better identify and manage risks with the model and develop effective mitigation strategies based on contingencies.

CONCLUSIONS AND RECOMMENDATIONS

The adoption of best practices for contract management, notwithstanding the Director of Student Transportation's views above, along with better alignment between the RFP and contracts, would have helped HCPSS establish a more effective process to monitor and track progress on implementing the model and develop effective mitigation strategies based on contingencies. HCPSS can learn from its experience procuring the model and apply the lessons learned to future procurements. Accordingly:

1. The Board should revise Policy 4050 to include a standard on contract management.
2. The Office of Purchasing should revise the Procurement Manual to:
 - a. Emphasize that the Office of Purchasing be fully engaged on the design and details of programs and activities that require contractors throughout the design process,
 - b. Require RFPs and contracts be fully aligned to include all requirements, and
 - c. Include explicit guidance on contract management based on certain best practices for contract management, including formal designation of contract managers; description of contract managers' duties and responsibilities; and development of contract management and/or contract risk management plans, written timelines for progress and performance on contract implementation, and effective mitigation strategies based on contingencies for large-scale or high-risk procurements.
3. The Office of Purchasing should develop and provide formal training for contract managers, especially for large-scale or high-risk procurements.
4. Program offices, in coordination with the Office of Purchasing, should consider using contract managers from outside of HCPSS, as HCPSS does for construction projects, for large-scale or high-risk non-construction procurements.

DISTRIBUTION

This report is intended primarily for the information and use of the Board of Education, Superintendent, and senior management. Any questions about the report should be addressed to them or me. I can be reached at David_Clark@HCPSS.org or 410-294-9787.

A handwritten signature in black ink that reads "David Clark". The signature is written in a cursive, flowing style.

David Clark

Internal Auditor

cc: Dr. Karalee Turner-Little, Deputy Superintendent
Mr. Jahantab Siddiqui, Chief Administrative Officer
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