

FREDERICK COUNTY, MARYLAND
Frederick Community College
Procurement and Contracting
Frederick, Maryland

PERFORMANCE AUDIT REPORT
For the period July 1, 2017 through February 28, 2019
Report #FCC-19-02

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING
TABLE OF CONTENTS**

INDEPENDENT AUDITORS' REPORT AND EXECUTIVE SUMMARY	1
BACKGROUND	3
OBJECTIVES, SCOPE, AND METHODOLOGY	7
FINDINGS, RECOMMENDATIONS, AND MANAGEMENT'S RESPONSES	9



INDEPENDENT AUDITORS' REPORT AND EXECUTIVE SUMMARY

Interagency Internal Audit Authority
Frederick County, Maryland

CliftonLarsonAllen LLP (CLA) was engaged by Frederick County, Maryland (the County) to conduct a performance audit of Frederick Community College (FCC) procurement and contracting. The purpose of this report is to provide findings and recommendations regarding this audit. Our audit scope covered the period of July 1, 2017 through February 28, 2019. Our audit was conducted in accordance with *Governmental Auditing Standards* issued by the Comptroller General of the United States.

The Financial Procedures Manual includes policies and procedures related to procurement. However, we noted areas for improving the policies to provide additional guidance in the area of procurements for customized software.

During our review of procurements related to requests for proposal (RFP), we noted that RFP's were properly posted, an evaluation committee was formed and an evaluation score sheet was used to document the proposal results. Management obtained approval of the Board of Trustees for RFP's that exceeded \$25,000. During our review of procurements related to requests for bid (RFB), we noted that requests for bid were properly obtained, there was a public bid opening where bids were opened and evaluated with the lowest, responsive bidder selected. For procurements where FCC piggybacked on a contract in another jurisdiction, we noted that proper documentation was maintained to ensure original contracting jurisdiction competitively bid the procurement.

During our review of sole source procurements, we noted that management has structured many of these contracts to be one-year agreements that are renewed annually in lieu of multi-year contracts with vendors for items such as customized software and there are no policies in place for periodic review to ensure there aren't other vendors with comparable products at a cost savings to the FCC.

We reviewed a sample of contracts to ensure there was on-going monitoring in place until the end of the contract. We noted that FCC has procedures in place to ensure projects are timely completed, are on budget and the work is being performed in accordance to contract specifications.

We obtained the general disbursement file for the audit period and performed data analytics over the disbursements. We performed a gap detection on the checks and noted all missing checks were due to voids or express checks. We reviewed the top ten vendors for FY 2018 and FY 2019 through February 8, 2019 for consistency and obtained explanations from management for those vendors that were on the list for one year only. We noted that the top ten disbursements during the audit period were for construction projects, bond payments, fire alarm installation, textbooks and technology. Lastly, we reviewed all vendors with payments greater than \$25,000 in FY 2018 to ensure they were properly bid, if applicable and obtained justifications for those vendors that were not competitively bid to ensure they followed the Financial Procedures Manual and COMAR. We noted an area for improvement related to on-call vendors for electrical, plumbing and HVAC services.

Interagency Internal Audit Authority
Frederick County, Maryland

A summary of findings is as follows:

Finding #	Area	Finding
1	Procurement for Blackboard, Inc.	There was no documentation to support that this product was competitively bid prior to the selection of Blackboard in 2002.
2	Procurements for customized software	FCC has structured customized software agreements as one-year contracts under the \$25,000 procurement threshold for competitive bids despite the intent being to utilize the software on an on-going basis due to the level of customization involved. This has resulted in a lack of competitive bidding and Board of Trustees approval.
3	Sole source procurements	FCC has utilized sole source vendors for customized software in excess of 10 years without completing an analysis of other potential vendors for possible cost savings.
4	Competitively bid on-call services	FCC utilizes specific vendors for services, such as electrical, plumbing, and HVAC which in total, can exceed \$25,000 annually, however, they are not competitively bid as on-call contracts for potential cost savings.

The responses from Frederick County Community College are included after each finding in the findings, recommendations, and management's responses section.

CliftonLarsonAllen LLP

CliftonLarsonAllen LLP

Baltimore, Maryland
September 20, 2019

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

BACKGROUND

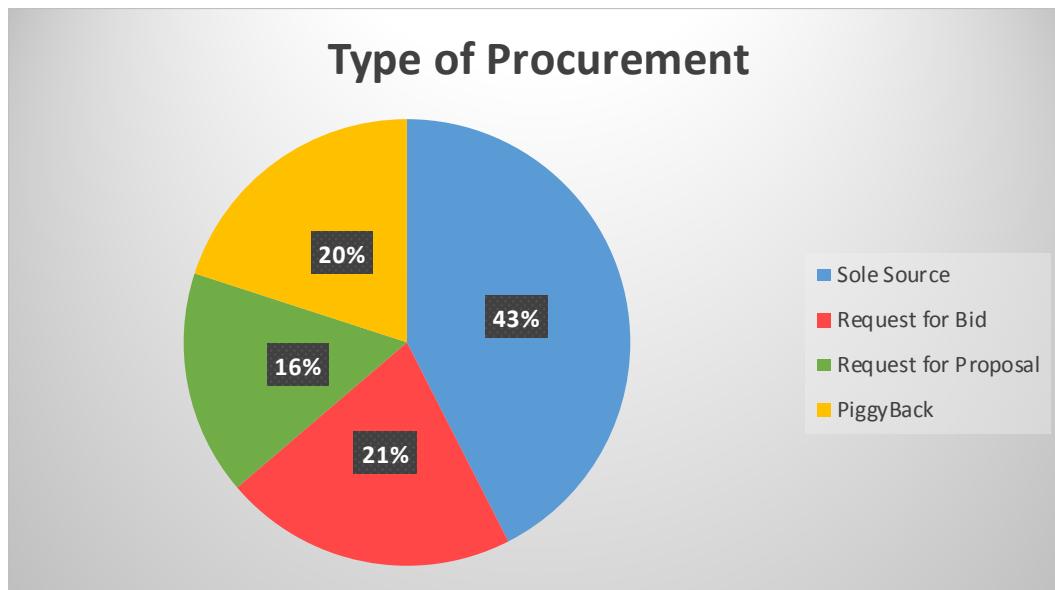
Frederick Community College (FCC) is a public college accredited by the Middle States Commission on Higher Education (MSCHE). FCC offers more than 85 degree and certificate programs through credit and continuing education and workforce development and serves approximately 16,000 students. The Finance Department oversees the procurement process as well as the initiation of purchase orders, approval of invoices and disbursement of funds.

FCC has a tiered approach to procurement thresholds. If the procurement is under \$7,500, it is up to the individual department's discretion on whether to competitively bid the procurement. If the procurement is between \$7,500 and \$24,999, three quotes must be obtained to show good effort was made for a low price. Procurements that exceed \$25,000 must be competitively bid with Board of Trustees approval obtained.

FCC uses several methods for procurement of goods and/or services, which include sole source, piggy back, request for bid and request for proposals. The Financial Procedures Manual has policies and procedures to ensure proper justification of cost and method used.

Refer to Appendix A for workflow analysis over the procurement process.

During the audit period, we noted that sole source procurements were utilized the most as follows:



Note: Table above is based on the number of procurements, not dollar value.

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

Data Analytics Results

We obtained the list of disbursements for FY 2018 and July 1, 2018 through February 28, 2019. As part of our analysis, we reviewed the top ten vendors for both years for consistency and obtained explanations from management for those vendors that were on the list for one year only. Refer to Table 1 for the top ten vendors.

TABLE 1

Top Ten Vendors by Dollar Amount			
FY 2018			
	Vendor	Amount	% of Total
1	RW Warner, Inc.	\$ 2,556,873.09	13.9%
2	CGLIC	1,508,869.64	8.2%
3	Maryland State	803,587.95	4.4%
4	Manufacturers & Traders	709,391.11	3.9%
5	Dell Marketing LP	615,999.08	3.3%
6	BB&T Financial, FSB	482,234.10	2.6%
7	WGL Energy	455,651.85	2.5%
8	Cengage Learning	357,862.82	1.9%
9	Convergence Technology	306,399.50	1.7%
10	Ferko Credit Union	272,944.70	1.5%

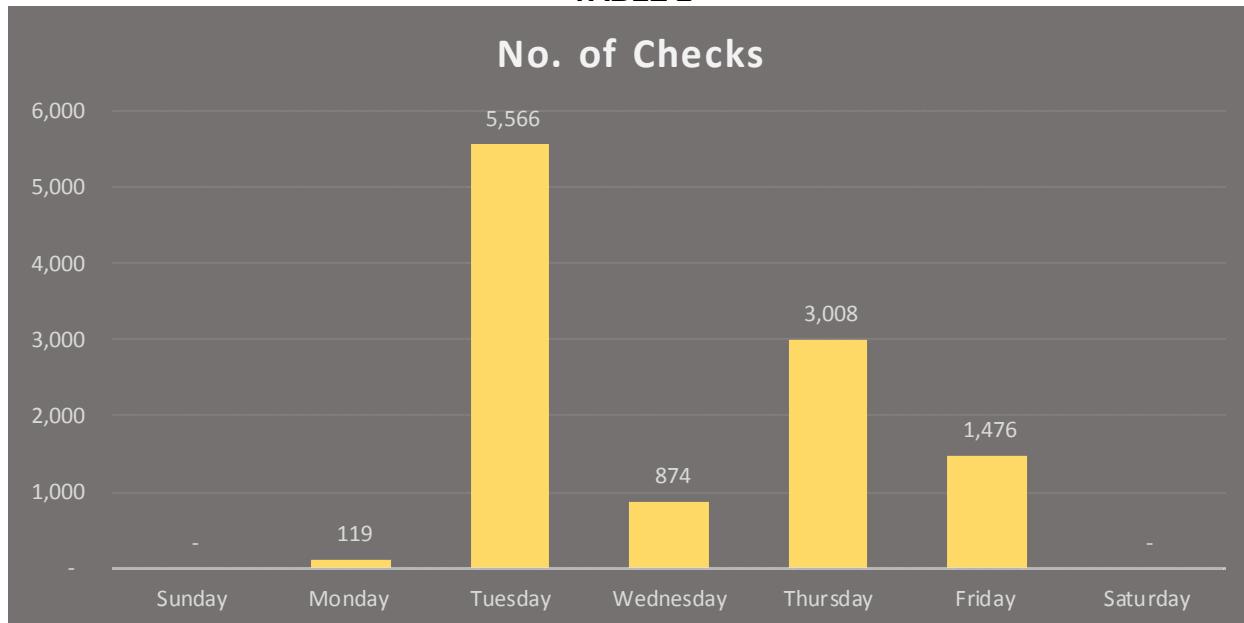
Top Ten Vendors by Dollar Amount			
FY 2019 (7/1/2018 - 2/28/2019)			
	Vendor	Amount	% of Total
1	J Vinton Schafer and Sons	\$ 1,306,560.57	11.1%
2	CGLIC	1,179,962.23	10.0%
3	TL Garden 7 Associates, Inc.	577,952.15	4.9%
4	Maryland State	550,870.43	4.7%
5	HP Secure Inc	522,140.77	4.4%
6	BB&T Financial, FSB	421,785.09	3.6%
7	WGL Energy	284,613.34	2.4%
8	Pearson Education	238,246.52	2.0%
9	Blackboard, Inc.	225,951.32	1.9%
10	CCS Inc.	200,080.44	1.7%

For FY 2018 and July 1, 2019 through February 28, 2019, we noted 43.9% and 46.8%, respectively, of total disbursements were made to the top ten vendors noted in Table 1.

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

Using the disbursement file provided by FCC for the period 7/1/17 through 2/28/19, we were able to determine what day of the week checks were processed for payment. Refer to Table 2 for the results of the analysis.

TABLE 2



We noted that there were no checks written on Saturdays or Sundays, which are non-business days for FCC. In addition, we noted that majority of checks are written on Tuesdays (50%) and Thursdays (27%), which are management designated days for check disbursements. Minimal checks were disbursed on Monday, Wednesday and Fridays on an as needed basis.

Lastly, we reviewed the top ten payments made during the period July 1, 2017 through February 28, 2019 to ensure they were consistent with FCC operations. Refer to Table 3 for the top ten disbursements for FCC.

TABLE 3

Top 10 Payments

	Vendor	Amount	Date	Purpose	Type of Procurement
1	RW Warner Inc.	\$ 523,736.15	7/13/2017	Construction	Request for bid
2	Manufacturers & Traders	497,170.72	5/17/2018	Bond Payment	Not subject
3	RW Warner Inc.	380,375.64	7/7/2017	Construction	Request for bid
4	TL Garden 7 Associates, Inc.	374,294.15	1/17/2019	Fire Alarm Installation	Piggyback
5	J Vinton Schafer and Sons	357,126.75	11/27/2018	Construction	Request for proposal
6	J Vinton Schafer and Sons	338,821.68	2/19/2019	Construction	Request for proposal
7	RW Warner Inc.	256,492.06	12/5/2017	Construction	Request for bid
8	Cengage Learning	255,527.11	5/15/2018	Textbooks	Not subject
9	HP Secure Inc.	248,494.72	1/10/2019	Technology	Piggyback
10	Blackboard Inc.	225,951.32	7/25/2018	Technology	Sole Source

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

We noted that the top ten payments were related to construction, textbooks, and technology, which is consistent with the operations of FCC during period of review. Under COMAR, textbooks do not have to be competitively bid. In addition, FCC had new fire alarms installed during FY 2019 and an annual bond payment related to the long term financing of a new parking garage and enrollment services building in 2010.

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

OBJECTIVES, SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) established by the U.S. Government Accountability Office (GAO). 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 the audit objectives. Because of the inherent limitations, a performance audit made for the limited purposes of our review would not necessarily disclose all weaknesses related to the FCC's compliance.

The objectives of the audit are as follows:

- Gain an understanding of FCC's purchasing and contracting policies, procedures, and practices and evaluate the associated risks and internal controls;
- Understand the contract awarding process for all types of procurements, including but not limited to the request for proposal process, sole sourcing, three quote, and piggy back contracts; and
- Sample awards and contracts as well as complete a review of vendor relationships and spending through analytics and data testing.

As part of the Procurement and Contracting audit, we:

- Obtained and reviewed the written policies and procedures over the procurement and contracting process.
- Met with FCC personnel to gain an understanding of:
 - The types of procurements utilized by FCC, including sole source, three quotes, request for bids, request for proposals and piggy back contracts;
 - The accounts payable process, including the types of purchase orders, how purchase orders are initiated, and the processing of invoices for payment;
 - The process used to monitor contracts after a vendor has been awarded; and
 - Their thoughts and perspectives of the risks associated with procurement and contracting and areas of control deficiencies.
- Performed a walkthrough of the procurement process for each major type of procurement.
- Tested a sample of procurements related to sole source, piggy back, requests for bid and requests for proposal for the period July 1, 2017 through February 28, 2019. Our sample sizes included 6 out of 34 sole source; 3 out of 17 request for bid, 4 out of 13 request for proposal and 3 out of 16 piggy back contracts. In total, we sampled 20% of the population of procurements during the audit period.

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

Specifically, we ensured that:

- The type of procurement used was in accordance to FCC policies and procedures based on the amount of the contract;
- Proper documentation was maintained to justify sole source procurements and piggy back arrangements;
- Requests for proposal were properly posted, an evaluation committee was formed and an evaluation score sheet was used to document the proposal results;
- Requests for bid were properly obtained, there was a public bid opening where bids were opened and evaluated with the lowest, responsive bidder selected;
- Board of Trustees approval was properly obtained, if applicable.
- Tested a sample of 8 contracts (10%) to ensure there was proper monitoring of the contract to ensure projects were timely completed, on budget, the work is being performed in accordance to contract specifications and change orders, if any are properly reviewed and approved.
- Obtained the general disbursement file for the audit period and performed the following:
 - A gap detection test on check numbers to ensure a complete population;
 - Accumulated the top ten vendors for FY 2018 and FY 2019 to date to ensure consistency between years;
 - Reviewed the days of the week checks were written to ensure there were no written checks on Saturday or Sundays;
 - Reviewed the top ten payments made to ensure they were reasonable based on FCC operations;
 - Performed Benford's Analysis on the population; and
 - Reviewed all vendors with FY 2018 disbursements greater than \$25,000 to ensure they were competitively bid. We obtained justification from management if vendors were not bid, such as textbook vendors except under COMAR.

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

FINDINGS, RECOMMENDATIONS AND MANAGEMENT'S RESPONSES

Finding #1: Procurement for Blackboard, Inc.

FCC considers an annual agreement with Blackboard, which totaled approximately \$226,000 for the period July 23, 2018 through July 22, 2019 to be a sole source contract. Per management, this contract renews annually and is highly integrated into the FCC's business processes and student on-line learning system; therefore, they consider this a sole source contract each year. However, there is no documentation to support that this product was competitively bid prior to the selection of Blackboard in 2002, and there are no staff remaining at FCC with knowledge about this particular procurement.

Recommendation:

We recommend that management review its procedures to ensure all competitive bid documentation is retained while active and three years afterwards, per the current records retention policy.

Management's Response:

The Board of Trustees approved the Records Retention Policy and Procedures on June 21, 2017. The formal records retention guidelines used by procurement in 2002 are unknown. The College cannot locate any documentation for a competitive solicitation for Blackboard that would have occurred in 2002. However, in accordance with the approved Records Retention Policy, the College will now maintain records for all competitive bids for the life of the agreement and then three years afterwards.

Blackboard is a sole-sourced learning management system for the College because it is fully integrated and customized with our academic program and our business processes. Moving to a new learning management system would require major rewriting of all customizations and programs between Blackboard and our connected systems of PeopleSoft and Microsoft Active Directory.

The current procurement of Blackboard follows current College procurement guidelines for a sole source procurement. The College has been documenting the annual maintenance fees to renew Blackboard as sole source procurement under the criteria from COMAR that "compatibility of equipment, accessories, or replacement parts is the paramount consideration." On an annual basis, the College presents the annual costs associated with Blackboard to the Board of Trustees for information.

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

Finding #2: Procurements for customized software

FCC has a one-year agreement, which renews annually with Innovative Interfaces, Inc. to provide and host a remote software application that is used to manage all aspects of the library catalog, digital resources and library patron accounts. This software was customized for FCC to meet the needs of the library catalog structure and FCC's business processes and is customized to interface with PeopleSoft Campus Solutions. The agreement is structured as one-year contract with annual payments totaling approximately \$22,000.

In addition, FCC has a one-year agreement that renews annually with Hylands, LLC for the software application, ImageNow that is used for document imaging, management and workflow. This software has been customized to interface with PeopleSoft Campus Solutions. While this software was originally a piggyback on a Howard Community College contract in 2005, management has since considered the contract to be a sole source procurement due to the extent of customization as annual maintenance costs have approximated \$24,000.

Given the level of customization required for these software systems, it has been the intent of management to utilize these vendors on a multi-year basis in which total payments to each vendor have exceeded the \$25,000 threshold required for competitive bids; however, Innovative Interfaces was not competitively bid and neither vendor was approved by the Board of Trustees due to FCC structuring the agreements as one-year contracts under \$25,000.

Recommendation:

We recommend that management review and update their policies and procedures related to the purchase of customized software. At the beginning of the procurement, management should perform an analysis of the type of software needed and the intended useful life of this software and if the total expected payments for the software over the useful life are expected to exceed \$25,000, management should competitively bid the product and obtain approval from the Board of Trustees instead of entering into a sole source agreement in one-year increments.

Management's Response:

The procurement procedures of the College state that the College conducts a formal solicitation process if the value of the actual procurement or award exceeds \$25,000. The Annotated Code of Maryland (COMAR) supports that competitive procurement need to occur only if the procurement exceeds \$50,000 (see note below). The College will always do a formal solicitation, piggyback contract, or sole source justification for Board of Trustees approval for software packages where the initial cost of the software exceeds the threshold of \$25,000.

In cases of software purchases under \$25,000, the College may not know at the time of purchase what the intended useful life of the software will be. As an academic institution, our faculty and staff regularly request software in order to innovate in ways that improve academic programs and business processes. Both faculty and staff need time to review the impact the software has on their environments and to determine the quality, efficiency, and useful life of the software. Since this process takes time, it would be difficult to assess the intended useful life of the software at the time of procurement. The College believes that the recommendation to perform an analysis of the type and intended useful life of software needed and if the total expected payments for the software over the useful life are expected to exceed \$25,000 to competitively bid the product may create a barrier to innovation for faculty and staff and negatively impact instruction.

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

In the case of Innovative Interfaces, Inc. and Hylands LLC, the College has documented both of these as sole source procurements under the \$25,000 threshold in accordance with the current procurement procedures. This documentation is reviewed and updated on an annual basis.

Note:

The College agrees to review and update procurement procedures in the Financial Procedures Manual related to the purchase of customized software where total expected payments for the software over the intended useful life will exceed \$25,000.

Per the Annotated Code of Maryland State (COMAR), Title 16 of the Education Article, section 16-311 for community colleges, states that an exception to the procurement rules are “any contract or purchase that qualifies as a “small procurement” as defined in the State Procurement Regulations”.

In the State Finance and Procurement Article, a small procurement is defined as:

- (1) a unit spends \$50,000 or less;
- (2) a contractor provides services subject to § 11-202(3) of this article for expected annual revenues of \$50,000 or less;
- (3) the Department of General Services or the Department of Transportation is seeking to award a procurement contract for a construction with a value that is \$100,000 or less; or
- (4) for purposes of administering Title 29, Subtitle 1 of the State Personnel and Pensions Article, the State Retirement Agency spends \$50,000 or less during a fiscal year for:
 - (i) expenses related to independent medical evaluations by a physician; and
 - (ii) any expenses related to testimony by the physician at administrative hearings on behalf of the Agency.

(b) A unit may make small procurements in accordance with the regulations of primary procurement units.

(c) A primary procurement unit may not create a small procurement by artificial division of a procurement.

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

Finding #3: Reoccurring sole source procurements

During our review of the procurement process, we noted several contracts, such as Hyland LLC (document imaging) and Innovative Interfaces, Inc. (library catalog) that involved customization and interfacing with Peoplesoft that FCC considers to be sole source procurements. However, FCC has utilized these vendors for 10-15 years with no periodic follow up analysis performed to ensure they remain the most cost effective vendor that meets the needs of the system.

Recommendation:

We recommend that management perform a periodic analysis on the accumulated expenditures under these contracts and research for similar vendors offering comparable products for potential cost savings. This analysis should be periodic at a minimum every five years or when there is a substantial increase in price greater than normal inflation. Documentation should be maintained to support the retention of the current vendor, if applicable.

Management's Response:

In order to support retention of the current vendor for these sole source procurements, the College agrees to conduct an analysis at least every five years or when a price increase is greater than normal inflation. The College currently has a process to review and update the sole source documentation on an annual basis to determine if the current products still meet the needs of the College.

Innovative Interfaces, Inc. (formerly VTLS, Inc.) is an integrated library system used at the College. Patrons from other libraries are able to use resources available within VTLS, which benefits FCC students, employees, as well as others in the community. The College began using it in 1998 through a Frederick County Government Contract and then FCC began hosting the software in 2002. The College has a memo on file from VTLS, Inc. stating that they are the only provider of this interface. Because VTLS is an integrated system and the only provider for this system, the College has documented this as a sole source procurement under the \$25,000 threshold. The College believes that the annual process to review the sole source documentation on file substantiates retention of this vendor.

Hylands LLC provides a software application (Perceptive Content, previously ImageNow) that is for document imaging, management, and workflow. The initial purchase of this document imaging software in June 2005 was a piggyback on a Howard Community College contract and was under the \$25,000 threshold. The College invested significant resources to develop an interface with PeopleSoft and it has defined many of our business processes. A transition to a new software package would be costly, so the College has continued to maintain this software package since it meets our needs. Additionally, in July 2009, the College received a letter from Perceptive Software to justify themselves as a sole source provider of ImageNow. Because of this letter and the integration and customization of this system, we have been treating the annual maintenance costs for this provider as a sole source procurement. The annual maintenance costs associated with this software have been under the \$25,000 threshold and therefore have not gone to our Board of Trustees for approval. However, we anticipate that the costs next FY will exceed \$25,000 and we have plans to submit this to our Board as a sole source procurement for approval in September 2019.

**FREDERICK COUNTY, MARYLAND
FREDERICK COMMUNITY COLLEGE –
PROCUREMENT AND CONTRACTING**

Finding #4: Competitively bid on-call services

During our review of annual disbursements, we noted that FCC utilizes specific vendors for services such as electrical, plumbing, and HVAC which in total, can exceed \$25,000 annually, which is the threshold for products and services to be competitively bid. Specifically, we noted in FY 2018, FCC spent approximately \$27,565 with Electrical Connections for various electrical jobs throughout the year. Per management, these services are not competitively bid by FCC.

Recommendation:

We recommend that management review and update their policies and procedures to competitively bid services, such as electrical and plumbing in order to obtain cost savings. These services, when competitively bid can be established as an on-call contract with the lowest responsive bidder and will ensure hourly rates are locked in for the contract period.

Management's Response:

The College has plans to begin to bid competitively on-call services during FY 2020. Previously, the College has engaged electrical, plumbing, and HVAC contractors in accordance with procurement procedures on a project-by-project basis. The College agrees that bidding these services competitively and establishing hourly rates for the contract period will provide the College with an opportunity for cost savings.