

Audit Report

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**Maryland Food Center Authority**

October 2017

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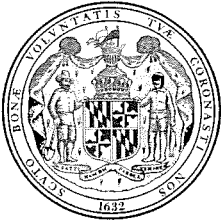
**OFFICE OF LEGISLATIVE AUDITS**  
**DEPARTMENT OF LEGISLATIVE SERVICES**  
**MARYLAND GENERAL ASSEMBLY**

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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

Warren G. Deschenaux  
Executive Director

Thomas J. Barnickel III, CPA  
Legislative Auditor

October 3, 2017

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee  
Delegate C. William Frick, Co-Chair, Joint Audit Committee  
Members of Joint Audit Committee  
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Maryland Food Center Authority (MFCA) for the period beginning August 7, 2013 and ending January 29, 2017. MFCA is primarily responsible for establishing, maintaining, operating, and promoting consolidated food markets within the State. MFCA owns and operates regional food industry facilities, including the Maryland Wholesale Produce and Seafood Markets located in Jessup, Maryland. MFCA plans to expand its current operations in Jessup to include a Maryland Market Center (Center) that will include additional wholesale sites, a farmer's market, and a restaurant that will focus on local agriculture.

Our audit disclosed that the MFCA did not appropriately monitor payments associated with the development of the Center. Specifically, MFCA did not ensure that it received payment requests for site development work on a monthly basis, as required, and that all requests were adequately reviewed by its independent engineer prior to payment. We also noted that MFCA overpaid certain construction fees. Budgeted site development costs totaled approximately \$4.3 million.

MFCA's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by MFCA.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "T. J. Barnickel III".

Thomas J. Barnickel III, CPA  
Legislative Auditor



## **Background Information**

### **Agency Responsibilities**

The Maryland Food Center Authority (MFCA) is an instrumentality of the State of Maryland and a public corporation. The primary purpose of MFCA is to establish, maintain, operate, and promote consolidated food markets within the State. MFCA owns and operates regional food service facilities, including the Maryland Wholesale Produce and Seafood Markets located in Jessup, Maryland. MFCA's Board of Directors comprises 12 members including the Comptroller of Maryland, the Secretary of the Department of Agriculture, the Secretary of the Department of General Services, the Director of Agricultural Extension for the State, and private citizens appointed by the Governor.

MFCA receives no State general funds. Its operations are primarily funded through entrance and registration fees, service fees, and rental income that are generated from the operation of the produce and seafood markets. According to its audited financial statements, MFCA's operating revenues and expenses totaled \$4.9 million and \$4.8 million, respectively, for the fiscal year ended June 30, 2016.

### **Financial Statement Audits**

MFCA engaged an independent accounting firm to perform audits of its financial statements for the fiscal years ended June 30, 2014, 2015, and 2016. In the related audit reports, the firm stated that MFCA's financial statements presented fairly, in all material respects, the financial position of MFCA, and the respective changes in financial position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### **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 April 8, 2014. We determined that MFCA satisfactorily addressed both of these findings.

## **Findings and Recommendations**

### **Contract Monitoring – Maryland Market Center**

#### **Background**

The Maryland Food Center Authority (MFCA) plans to expand its Maryland Wholesale Produce and Seafood Markets in Jessup to include a new market site called the Maryland Market Center (Center), at an estimated total cost of \$42 million. The Center will include additional wholesale sites, a farmer's market, and a restaurant that will focus on local agriculture.

In December 2013, MFCA entered into an agreement to sell 6.43 acres of its land adjacent to the parcel of land to be used for the Center to a company for approximately \$1.5 million. According to its minutes, the MFCA's Board of Directors discussed the agreement to sell this parcel of land, and we were advised that the Board subsequently approved the agreement. The Board of Public Works also approved the agreement. In October 2014, MFCA and the company entered into a second agreement. This second agreement authorized the company to hire a construction contractor to perform site development work concurrently on both the company's 6.43 acres and MFCA's new Center location. Because the sites were adjacent, the expectation was that economies and efficiencies would be realized by this arrangement. At its April 2014 meeting, MFCA's Board of Directors approved the use of this contractor for the site development work, with the understanding that this arrangement deviated from MFCA's procurement procedures, which specify that all contracts for project development and construction shall be made through competitive solicitation. This development contract was not required to be approved by the Board of Public Works.

Under the terms of this second agreement, MFCA is responsible for payment of all development costs associated with its property, as well as a portion of certain costs shared with the company. According to the agreement, MFCA's development costs were budgeted to total \$4.3 million, and were to be offset by the \$1.5 million purchase price of the land.

**Finding 1**

**MFCA did not ensure it obtained monthly payment requests from the site development contractor as required, and payments totaling \$217,671 were made without receiving certification from MFCA's independent engineer of the work performed. Additionally, MFCA overpaid certain fees.**

**Analysis**

MFCA did not ensure that it obtained monthly payment requests for work performed and charges incurred, as required under the agreement, and two requests were paid even though MFCA's independent engineer had not approved them for payment. Furthermore, MFCA overpaid certain fees by approximately \$60,000. As of April 2017, MFCA had received six payment requests totaling approximately \$3.6 million. MFCA paid these requests either directly or by applying the purchase price for the land. MFCA hired an engineer to review and approve these requests based on an independent assessment of work performed.

MFCA did not contact the site development contractor when it failed to receive timely payment requests. MFCA did not receive the first payment request, which totaled approximately \$1.9 million, until April 2015, even though the development and site work for MFCA's property began in November 2014. Consequently, the work performed and the applicable charges incurred during this period were not reviewed and evaluated by MFCA's independent engineer on a timely basis. Furthermore, our review of the six payment requests that had been submitted and paid by MFCA through April 20, 2017, disclosed that MFCA received approval for payment from its engineer for only four of the six. Specifically, there was no documented authorization from MFCA's engineer for the requests dated January 12, 2016 and June 8, 2016 totaling \$150,097 and \$67,574, respectively. We contacted MFCA's engineer and were advised that, as of April 2017, his review of these requests remained incomplete, and the requests had not been approved for payment. However, the related payments were made by MFCA in July 2016.

Finally, our review disclosed that the development agreement allowed for a four percent construction/development fee to be assessed to MFCA; however, the actual payment requests billed this fee at a rate of seven percent. MFCA was unaware of this discrepancy until we brought it to its attention, at which time MFCA agreed to recover overpayments of approximately \$60,000.

Under the terms of the development agreement, the company was required to submit to MFCA monthly payment requests, with supporting invoices and documentation. Prior to payment, MFCA's engineer was responsible for reviewing and approving these requests based on the reasonableness of the costs

charged and certification of the work completed. MFCA's contract with the engineer required the engineer to review each request and provide MFCA with comments and opinions.

**Recommendation 1**

**We recommend that MFCA**

- a. obtain payment requests when required by current and future construction contracts to monitor and evaluate work performed and charges incurred on a timely basis,**
- b. make contractual payments only after established review and approval procedures have been completed,**
- c. obtain review comments from its engineer for the two aforementioned payment requests and take appropriate action based on those comments, and**
- d. recover all overcharges resulting from the noted rate discrepancy.**



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

We have conducted a fiscal compliance audit of the Maryland Food Center Authority (MFCA) for the period beginning August 7, 2013 and ending January 29, 2017. 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 MFCA'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 accounts receivable, cash receipts, payroll, procurement, and disbursements. We also determined the status of the findings contained in our preceding audit report.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of MFCA's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests 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. We also extracted data from MFCA's financial systems for the purpose of testing certain areas, such as accounts receivable and cash receipts. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the 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.

MFCA'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.

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 MFCA's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our audit did not disclose any significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to MFCA that did not warrant inclusion in this report.

The response from MFCA to our finding 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 MFCA regarding the results of our review of its response.



## APPENDIX

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September 27, 2017

Mr. Thomas J. Barnickel III, CPA  
Legislative Auditor  
Department of Legislative Services  
Office of Legislative Audits  
Maryland General Assembly  
301 W. Preston Street - Room 1202  
Baltimore, Maryland 21201

Dear Mr. Barnickel:

We have received the Audit report for the period beginning August 7, 2013 and ending January 29, 2017.

After review of the Auditor's comments regarding the finding related to Contract Monitoring, the following steps have been taken by the Maryland Food Center Authority (MFCA):

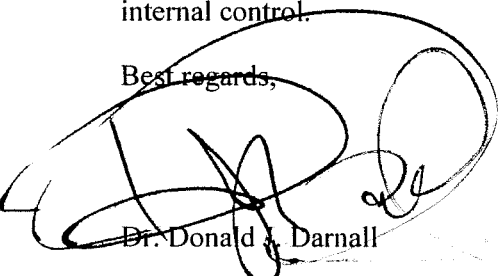
Contract Monitoring: MFCA will continue to monitor contract compliance and will enhance procedures to verify all terms of contracts are executed as stated within the agreement prior to issuing payment. Specifically, additional procedures have been added to the invoice payment process. MFCA Deputy Director will ensure the submitted invoice is in compliance with the related agreement prior to submission to the MFCA Director of Finance for payment. MFCA Director of Finance will ensure all related supporting documentation is attached to the approved invoice prior to submission to the State for payment.

With respect to Recommendation 1 (c), MFCA has received approval from its engineer on July 17, 2017 for the two payments in question.

With respect to Recommendation 1 (d), the site development contractor agreed on September 27, 2017 to a full refund of the overpayment for its construction/development fee in the amount of \$59,560.43.

The MFCA appreciates the recommendations of the Legislative Auditor and the suggestions offered to bring the MFCA in compliance with the Comptroller of Maryland's Accounting Procedures Manual. In addition to the above-mentioned changes, the MFCA has implemented other procedures to further strengthen the Authority's internal control.

Best regards,



Dr. Donald J. Darnall

cc: Steven Fanaroff, Chairman

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