

Audit Report

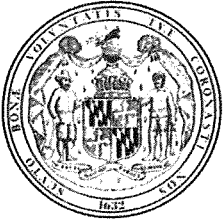
Maryland Agricultural Land Preservation Fund

Fiscal Year Ended June 30, 2011



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

-
- This report and any related follow-up correspondence are available to the public through the Office of Legislative Audits at 301 West Preston Street, Room 1202, Baltimore, Maryland 21201. The Office may be contacted by telephone at 410-946-5900, 301-970-5900, or 1-877-486-9964.
 - Electronic copies of our audit reports can be viewed or downloaded from our website at <http://www.ola.state.md.us>.
 - Alternate formats may be requested through the Maryland Relay Service at 1-800-735-2258.
 - The Department of Legislative Services – Office of the Executive Director, 90 State Circle, Annapolis, Maryland 21401 can also assist you in obtaining copies of our reports and related correspondence. The Department may be contacted by telephone at 410-946-5400 or 301-970-5400.
-



DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Karl S. Aro
Executive Director

June 6, 2012

Bruce A. Myers, CPA
Legislative Auditor

Senator James C. Rosapepe, Co-Chair, Joint Audit Committee
Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Maryland Agricultural Land Preservation Fund (Fund) for the period beginning July 1, 2010 and ending June 30, 2011. The Fund was established to preserve productive agricultural land and is primarily funded by State and agricultural transfer taxes and local subdivision matching funds. The Fund is administered by the Maryland Agricultural Land Preservation Foundation (MALPF).

Our audit disclosed that MALPF's database of easement acquisitions had not been tested for reliability nor reconciled to the State's accounting records. In addition, MALPF needs to improve existing procedures to ensure the propriety of taxes reported and remitted by the counties.

The Department of Agriculture's response to this audit, on behalf of MALPF, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us by MALPF during the course of this audit.

Respectfully submitted,

A handwritten signature in black ink that reads "Bruce A. Myers". The signature is written in a cursive style with a large, stylized "B" and "M".

Bruce A. Myers, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Maryland Agricultural Land Preservation Foundation (MALPF) was established to preserve productive agricultural land and woodland in Maryland. MALPF, which is governed by a Board of Trustees consisting of 13 members, purchases land easements with Maryland Agricultural Land Preservation Fund (Fund) revenue and places certain restrictions on the use of the land (for example, the land cannot be subdivided for residential or commercial purposes). The Fund, which is administered by MALPF, generally derives revenues from State transfer taxes, agricultural transfer taxes, local subdivision matching funds, State bond proceeds, and federal grants. According to MALPF's records, since inception through June 30, 2011, it had purchased 2,043 easements on 279,223 acres of land for a total cost of approximately \$588 million.

Financial Information

Attached, as Exhibit A, is a schedule of the financial activity of the Special Revenue Fund and Installment Contracts for the fiscal year ended June 30, 2011. This schedule is not intended to, and does not provide the financial position and results of operations in accordance with generally accepted accounting principles. In addition, certain other financial statements (for example, a balance sheet) and disclosures have not been provided as would be required by generally accepted accounting principles. The schedule was prepared on a modified accrual basis of accounting which provides that revenues are recognized when they become available and measurable, and expenditures are recognized when the related liability is incurred.

As of June 30, 2011, the total resources available to finance future expenditures including easement acquisitions were \$26,240,232. The fund balance in the Special Revenue Fund was \$8,495,479 as of June 30, 2011. The Special Revenue Fund Balance is reserved for easement acquisitions that were approved by MALPF's Board of Trustees, but were not presented to the landowners as well as offers accepted by the landowners that were awaiting Board of Public Works approval or settlement at year end. In addition to its special fund appropriation, MALPF received certain General Obligation bond authorizations. Accordingly, bond funds available to finance future expenditures totaled \$17,744,753 at June 30, 2011. The fund balance as of June 30, 2011 in the Installment Contract Fund (\$8,426,496) represents funds committed for the payment of easements purchased by MALPF on an installment basis.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the three findings contained in our preceding audit report dated May 13, 2011. We determined that MALPF satisfactorily addressed one of these findings. The remaining two findings are repeated in this report.

Findings and Recommendations

Easement Acquisitions

Finding 1

The database of easement acquisitions developed by the Maryland Agricultural Land Preservation Foundation (MALPF) had not been tested for reliability nor reconciled to the State's accounting records.

Analysis

The database of easement acquisitions developed by MALPF had not been tested for reliability nor reconciled to the State's accounting records, and as of June 30, 2011, the cumulative cost of easement acquisitions recorded in the database (\$588 million) exceeded the corresponding total in the State's records (\$557 million) by \$31 million. Consequently, there was a lack of assurance that all easement costs were properly accounted for and recorded in the database and in the State's records.

MALPF's database of easements purchased contains information such as the number of acres purchased and the related purchase price. Similar conditions were commented upon in our two preceding audit reports.

Recommendation 1

We recommend that MALPF

- a. ensure the accuracy of the critical data included in the database of easement acquisitions (repeat), and**
- b. periodically reconcile the database to the related State accounting records (repeat).**

County Agricultural Land Transfer Taxes

Finding 2

MALPF did not ensure that all counties properly filed an annual report or remitted unused agricultural land transfer taxes to the State as required.

Analysis

MALPF did not ensure that all counties properly filed an annual report or remitted unused agricultural land transfer taxes to the State as required. All counties are required by MALPF policy to submit annual reports that are to include information regarding transfer taxes collected by the counties, the nature of the counties' use of the taxes, and whether any unexpended taxes were due to the State. However, a review of county filings for fiscal year 2011 disclosed that, as of December 15, 2011, MALPF had not received reports from three counties (generally due in October), and the reports that were received did not always include sufficient data to evaluate whether or not any amount was due the State. Furthermore, MALPF did not have adequate procedures to establish an accounts receivable record when funds were due from a county. Similar conditions were commented upon in our preceding audit report.

Subsequent to our inquiries, MALPF conducted an analysis of the fiscal year 2011 reports submitted and, in February 2012, billed five counties for approximately \$1.2 million in unexpended funds. Although the majority of these funds related to taxes collected in fiscal years 2008 and 2007, a portion of the billings related to taxes collected in prior years dating back to fiscal year 1996.

State law requires that counties remit a specified portion of the agricultural land transfer taxes they collect to the Maryland Comptroller for deposit into the Maryland Agricultural Land Preservation Fund (Fund). The remaining transfer tax is to be used by the counties for land preservation and any transfer taxes not expended or committed on or before three years from the original date of receipt, shall be remitted to the State for deposit into the Fund. According to the State's accounting records, agricultural land transfer taxes remitted to the State during fiscal year 2011 totaled approximately \$1.4 million.

Recommendation 2

We recommend that MALPF

- a. ensure that annual reports are submitted on a timely and complete basis and monitor the remission of amounts due to the State (repeat), and**
- b. maintain accounts receivable records for funds due the State (repeat).**

Audit Scope, Objectives, and Methodology

We have audited the Maryland Agricultural Land Preservation Fund (Fund) for the fiscal ending June 30, 2011. 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 the Fund's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. We audit the Fund annually as required by the Agriculture Article, Section 2-505 of the Code. We also determined the status of the findings contained in our preceding audit report.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. The areas addressed by the audit included disbursements for the purchase of easements, as well as receipt of agricultural land transfer taxes, and compliance with easement terms. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Fund's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

Our audit did not include certain support services provided to the Maryland Agricultural Land Preservation Foundation (MALPF) by the Department of Agriculture. These support services (such as purchasing, data processing, maintenance of accounting records, and related fiscal functions) are included within the scope of our audit of the Department.

MALPF 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 findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the Fund's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes a finding regarding a significant instance of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to the Fund that did not warrant inclusion in this report.

The Department of Agriculture's response, on behalf of MALPF, to our findings 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 the Department regarding the results of our review of its response.

Exhibit A

MARYLAND AGRICULTURAL LAND PRESERVATION FUND

Schedule of Special Revenue and Installment Contract Financial Activity

Fiscal Year Ended June 30, 2011

	Special Revenue	Installment Contracts	Total (Memorandum Only)
REVENUES:			
State property transfer taxes	\$ 8,125,996		\$ 8,125,996
Local subdivision matching funds for easement purchases	5,116,287		5,116,287
Agricultural transfer taxes	1,401,236		1,401,236
Federal reimbursement of Special Revenue			
Fund expenditures for easement acquisitions	1,872,162		1,872,162
Special Revenue Reimbursable Funds	589,686		589,686
Interest earnings on funds reserved for installments		\$ 181,960	181,960
Other non-reoccurring receipts	23,021		23,021
Total Revenues	17,128,388	181,960	17,310,348
EXPENDITURES:			
Easement acquisitions	7,993,916		7,993,916
Easement acquisitions purchased on an installment basis		2,894,419	2,894,419
Federal fund easement acquisitions	1,872,162		1,872,162
Administration	1,287,848		1,287,848
Land appraisal, legal and settlement fees	408,418		408,418
Total Expenditures	11,562,344	2,894,419	14,456,763
EXCESS OF REVENUE OVER EXPENDITURES:	5,566,044	(2,712,459)	2,853,585
OTHER SOURCES (USES) OF FINANCIAL RESOURCES:			
Transfers for easement acquisitions purchased on installment basis	(950,801)	950,801	0
Net Other Sources (Uses) of Financial Resources	(950,801)	950,801	0
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES AND NET OTHER SOURCES (USES) OF FINANCIAL RESOURCES	4,615,243	(1,761,658)	2,853,585
FUND BALANCES, July 1, 2010 (Restated)	\$ 3,880,236	\$ 10,188,154	\$ 14,068,390
FUND BALANCES, June 30, 2011	\$ 8,495,479	\$ 8,426,496	\$ 16,921,975

Notes:

- (1) The Special Revenue Fund Balance is reserved for easement acquisition offers that were approved by the Foundation's Board of Trustees, but were not presented to the landowners as well as offers accepted by the landowners that were awaiting Board of Public Works approval or settlement at year end. The Installment Contracts Balance represents funds already committed for the payment of easements purchased by MALPF on an installment basis.
- (2) The Special Revenue Fund Balance as of July 1, 2010 was restated to eliminate the effects of certain bond activity from the beginning fund balance.
- (3) Additional easement acquisitions totaling \$4,393,528 were made with bond proceeds (which are not accounted for in the Special Revenue Fund above) during the fiscal year ended June 30, 2011. As of June 30, 2011, additional funds available for easement acquisitions include General Obligation Bond funds from the Consolidated Capital Bond Loans of 2009 and 2011 totaling \$5,000,000 and \$4,367,000, respectively. In addition, \$8,377,753 in General Obligation Bond funds from the Consolidated Capital Bond Loan of 2010 remained available for easement purchases.



APPENDIX

Maryland Department of Agriculture

Agriculture | Maryland's Leading Industry

Office of the Secretary

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
Earl F. Hance, Secretary
Mary Ellen Setting, Deputy Secretary

The Wayne A. Cawley, Jr. Building
50 Harry S. Truman Parkway
Annapolis, Maryland 21401
Internet: www.mda.state.md.us

410.841.5700 Baltimore/Washington
301.261.8106 Washington, D.C.
410.841.5914 Fax
800.492.5590 Toll Free

May 30, 2012

Mr. Bruce A. Myers, CPA
Legislative Auditor
State of Maryland – Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, Maryland 21201

Dear Mr. Myers:

Attached you will find our responses to your draft audit report for the Maryland Agricultural Land Preservation Fund for the fiscal year ending June 30, 2011.

Per your request, we will submit both paper and electronic copies to response@ola.state.md.us.

If you have any questions or specific issues regarding our response, please contact Jim Wallace at (410) 841-5855.

Sincerely,

Earl F. Hance
Secretary

EFH/sf

Responses to Maryland Agricultural Land Preservation Foundation Audit ending June 30, 2011

Easement Acquisitions

Finding 1

The database of easement acquisitions developed by the Maryland Agricultural Land Preservation Foundation (MALPF) had not been tested for reliability nor reconciled to the State's accounting records.

MALPF has tested the database for accuracy and reliability. Procedures have been put in place to reconcile current fiscal year purchases with the state's accounting records. Furthermore, as part of the MALPF's inspection process, financial information will be verified with information contained in the database. The Executive Director has met with the Department's Information Technology Director to discuss identifying an adequate test to determine the accuracy of the financial information contained in the database. The IT Director is in the process of writing a program to extract random properties to be placed in a spread sheet. The spread sheet will be provided to MALPF staff and compared to the physical files. All comparisons will be made by staff other than staff responsible for the county for which a check is being made. In addition, settled easements have been physically verified with each county program administrator. All testing will be completed no later than July 31, 2012. Please note that for fiscal year 2011, easement activity contained in the database has been reconciled to the easement expenditure information recorded in FMIS.

County Agricultural Land Transfer Taxes

Finding 2

MALPF did not ensure that all counties properly filed an annual report or remitted unused agricultural land transfer taxes to the State as required.

The auditors noted that MALPF had not received fiscal year 2011 annual reports from four counties during their test of all of the State's 23 counties. Three of the counties identified are non-certified counties. State Planning Regulations do not require non-certified counties to submit an annual report. Montgomery County, the fourth county identified by the auditors, was late with their submission due to major changes in their accounting system. A written explanation from the County Program Administrator, confirming the reason for the delay, was submitted prior to October 1st. In accordance with regulations, this was acceptable to MALPF and their deadline was extended. MALPF will work more closely with county administrators to promote more

Responses to Maryland Agricultural Land Preservation Foundation Audit ending June 30, 2011

timely and accurate submissions from all of the counties. Per an analysis of the annual reports received from the counties, MALPF has invoiced six of the counties for a total of \$1,217,007, representing unspent agricultural tax revenue that is older than three years.¹

¹ **Auditor's Comment:** In its response, the Department indicated that the audit report had noted annual reports of transfer taxes had not been received from four counties. However, our report only commented on three counties; the fourth county (Montgomery) was not addressed by our report. Furthermore, the response indicated that the three counties identified are non-certified and that State regulations do not require non-certified counties to submit an annual report. The State regulations cited in the response are not germane to the audit finding since, as noted in our report, MALPF policy requires all counties to submit annual reports. Such reports are necessary to monitor transfer taxes collected, the use of those taxes, and whether any unexpended taxes were due to the State.

AUDIT TEAM

Paul R. Denz, CPA

Audit Manager

Michael J. Murdzak, CPA

Audit Senior

B. Summer Raza

Staff Auditor