

Audit Report

Maryland Agricultural Land Preservation Fund

Fiscal Year Ended June 30, 2010



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Bruce A. Myers, CPA
Legislative Auditor

May 13, 2011

Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Senator James C. Rosapepe, 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, 2009 and ending June 30, 2010. 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 certain aspects of 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 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,

Bruce A. Myers, CPA
Legislative Auditor

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* Denotes item repeated in full or part from preceding audit report

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, 2010, it had purchased 2,076 easements on 284,000 acres of land for a total cost of approximately \$599 million.

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 March 31, 2010. We determined that MALPF satisfactorily addressed two of these findings. The remaining finding is repeated in this report.

Financial Information

Attached, as Exhibit A, is a schedule of the financial activity of the Fund for the fiscal year ended June 30, 2010. This schedule is not intended to, and does not provide the financial position and results of operations in accordance with generally accepted accounting principles. Specifically, certain 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.

MALPF's special fund appropriation for fiscal year 2010 was reduced by \$10,000,000 pursuant to the Budget Reconciliation and Financing Act of 2010. General Obligation bonds in the amount of \$17,814,000 replaced these funds. This activity is reflected in Exhibit A as "Other Sources (Uses) of Financial Resources".

The fund balance as of June 30, 2010 in the Special Revenue Fund (\$16,480,162) represents funds available to finance future expenditures, including easement acquisitions. 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. The fund balance as of June 30, 2010 in the Trust Fund (\$10,188,154) represents funds committed for the payment of easements purchased by MALPF on an installment basis.

Findings and Recommendations

Easement Acquisitions

Finding 1

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

Analysis

Certain aspects of the database of easement acquisitions developed by MALPF had not been tested for reliability nor reconciled to the State's accounting records. MALPF's database of easements purchased contains information such as the number of acres purchased and the related purchase price. However, as of February 23, 2011, the financial data related to easement acquisition costs in the database had not been tested for accuracy. In addition, the database had not been reconciled to the State's accounting records. MALPF management advised us that it was working on completing the reliability testing of the financial data; however, it could not provide a definitive date for its completion. Consequently, there is a lack of assurance that all easement costs were properly accounted for and reported.

During our review, we also noted a lack of reliable data supporting the total cumulative cost of easement acquisitions reported in the MALPF Annual Report to the General Assembly (\$599 million) which exceeded the comparable amount recorded on the State's accounting records (\$548 million) by \$51 million. Additionally, the cumulative cost of the easement acquisitions recorded in the database totaled approximately \$565 million. Similar conditions were commented upon in our preceding audit report.

We additionally noted that not all of MALPF's easement acquisitions had been properly capitalized in the State's accounting records. Specifically, eight easements acquired during fiscal year 2010, totaling approximately \$5 million had not been included in the State Comptroller's records of MALPF's fixed assets.

Recommendation 1

We recommend that MALPF

- a. ensure the accuracy of the financial information included in the database of easement acquisitions (repeat),**
- b. ensure that easement information is accurately reported in its annual report and periodically reconciled to the related State accounting records (repeat), and**

- c. **investigate the aforementioned discrepancies and take appropriate corrective action (repeat).**

County Agricultural Land Transfer Taxes

Background

State law generally requires that county agricultural land preservation programs remit fifty percent of the agricultural land transfer taxes collected to the Maryland Comptroller for deposit in the Maryland Agricultural Land Preservation 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 2010 totaled approximately \$1.8 million.

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 the 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.

Our test of 10 counties' filings disclosed that as of January 10, 2011, MALPF had not received fiscal year 2010 annual reports from 3 of the counties (generally due in October 2010) and, as a result, had not ensured the proper disposition of the transfer taxes. Through subsequent correspondence with one of these three counties, we identified approximately \$19,000 in unexpended funds from fiscal year 2007 that could potentially be due the State. Our review also disclosed that MALPF did not have an adequate procedure to establish an accounts receivable record when funds were due from a county. In this regard, we were advised that MALPF would call the county requesting the funds rather than have the Department of Agriculture – Accounting Department establish an accounts receivable record.

Recommendation 2

We recommend that MALPF establish procedures

- a. to obtain and review the required annual reports and monitor the remission of amounts due to the State, and**
- b. to maintain accounts receivable records for funds due the State.**

Finding 3

MALPF had not established procedures to ensure that the State's portion of taxes remitted by the counties on a monthly basis was supported by the monthly reports.

Analysis

MALPF had not established procedures to ensure that the State's portion of agricultural land transfer taxes remitted on a monthly basis by the counties was supported by the monthly reports. In addition, MALPF did not maintain the monthly reports from the counties. Agricultural transfer taxes are collected by each county. The counties remit the State's portion of the taxes collected to the Comptroller's Revenue Administration Division (RAD) along with the corresponding monthly report of collections. Upon receipt, RAD forwards the reports to MALPF and transfers the related funds via journal entry to the Fund.

Our test of a fiscal year 2010 monthly report for each of 10 different counties with agricultural transfer taxes collected totaling \$117,342, disclosed that, due to errors in the reports, 2 counties submitted insufficient amounts, totaling \$1,320, for the month reviewed.

Recommendation 3

We recommend that MALPF

- a. establish procedures to ensure the agricultural land transfer tax revenue remitted by the counties is supported by the monthly reports,**
- b. take the appropriate follow-up action to recover the aforementioned underpayments by the counties, and**
- c. retain the related monthly reports for future reference.**

Audit Scope, Objectives, and Methodology

We have audited the Maryland Agricultural Land Preservation Fund (Fund) for the fiscal ending June 30, 2010. 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 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 Financial Activity Fiscal Year Ended June 30, 2010

	Governmental Fund Type Special Revenue	Fiduciary Fund Types Expendable Trust	Total (Memorandum Only)
REVENUES:			
State property transfer taxes	\$ 20,509,948		\$ 20,509,948
Local subdivision matching funds for easement purchases	14,915,430		14,915,430
Agricultural transfer taxes	1,880,989		1,880,989
Federal reimbursement of Special Revenue Fund expenditures for easement acquisitions	6,126,627		6,126,627
Interest earnings on funds reserved for installment purchases		\$ 249,934	249,934
Other non-reoccurring receipts	76,627		76,627
Total Revenues	43,509,621	249,934	43,759,555
EXPENDITURES:			
Easement acquisitions	37,819,348		37,819,348
Easement acquisitions purchased on an installment basis		3,217,497	3,217,497
Federal fund easement acquisitions	6,126,627		6,126,627
Administration	1,422,237		1,422,237
Land appraisal, legal and settlement fees	315,899		315,899
Total Expenditures	45,684,111	3,217,497	48,901,608
EXCESS OF REVENUE OVER EXPENDITURES:	(2,174,490)	(2,967,563)	(5,142,053)
OTHER SOURCES (USES) OF FINANCIAL RESOURCES:			
Transfers in from Special Revenue Fund for easement acquisitions purchased on installment basis		443,825	443,825
Transfers out to Expendable Trust Fund for easement acquisitions purchased on installment basis	(443,825)		(443,825)
Transfers out from the Special Revenue Fund to the General Fund per BRFA 2010	(10,000,000)		(10,000,000)
Transfers in from GO Bond Funds per the Maryland Consolidated Capital Bond Loan of 2010	17,814,000		17,814,000
Net Other Sources (Uses) of Financial Resources	7,370,175	443,825	7,814,000
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES AND NET OTHER SOURCES (USES) OF FINANCIAL RESOURCES	5,195,685	(2,523,738)	2,671,947
FUND BALANCES, July 1, 2009	\$ 11,284,477	\$ 12,711,892	\$ 23,996,369
FUND BALANCES, June 30, 2010	(1) \$ 16,480,162	\$ 10,188,154	\$ 26,668,316

- (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 Expendable Trust Fund Balance represents funds already committed for the payment of easements purchased by MALPF on an installment basis.



Maryland Department of Agriculture

APPENDIX

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Office of the Secretary

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

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May 9, 2011

Mr. Bruce A. Myers, CPA
Legislative Auditor
State of Maryland – Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, MD 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, 2010.

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

/sf

Responses to Maryland Agricultural Land Preservation Foundation Audit ending June 30, 2010

Finding 1

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

The agency concurs. With the assistance of a University of Maryland intern, MALPF has completed populating its database of easement acquisitions. We now have the ability to query the number of easement acres by year, as well as the amounts of all purchases. The database is now capable of showing any changes in acres and offer amounts from the time an offer is made, to settlement of the easement. As a consequence of this progress, MALPF will now be able to reconcile its Annual Report acres, and dollars spent, to the database.

MALPF now needs to embark upon the testing phase of the database process to ensure that the responses to queries are both accurate and reliable. Tests will be performed to ascertain the reliability of the database environment. It is anticipated that the database will be tested by July 31, 2011.

The eight easements noted by the auditors have been added to the Fixed Asset Sub-System.

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 agency concurs. The agency will address this issue by transferring the responsibility of identifying unexpended transfer taxes to the agency's Fiscal Services program. Initially, a review will have to be undertaken to ascertain if the agency is in possession of adequate transfer tax report information from each of the 23 jurisdictions. An analysis of this information will then ensue to determine if a county is improperly retaining unexpended transfer taxes that should be remitted to the State. If a jurisdiction is found to be improperly retaining unexpended transfer tax funds, Fiscal will generate an invoice to bill the county for the amount owed and pursue collection. In addition, letters will go out to the counties by May 15, 2011 requesting information regarding any agricultural land taxes retained by the jurisdictions for more than three years.

Responses to Maryland Agricultural Land Preservation Foundation Audit ending June 30, 2010

Finding 3

MALPF had not established procedures to ensure that the State's portion of taxes remitted by the counties on a monthly basis was supported by the monthly reports.

The agency concurs. The Tax Property Article of the Annotated Code of Maryland mandates that county agricultural land preservation programs remit two-thirds of the agricultural land transfer taxes collected to the Comptroller if the county is not certified and 25% of the agricultural land transfer taxes collected to the Comptroller if the county is certified. Certification of county agricultural land preservation programs is regulated by Title 5, Subtitle 4, of the Code of the Public Laws of Maryland, State Finance and Procurement Article. The receipt of monthly reports from the Revenue Administration Division (RAD) of the Comptroller reflecting remittances by the counties of agricultural land transfer taxes has been inconsistent. MALPF will contact RAD and request that these monthly reports be sent to an identified MALPF employee. Once received, MALPF will compare these reports to the revenue transfer entries processed by RAD, in light of each county's certified or non-certified status, to ascertain if the appropriate amount of revenue was transferred to the agency. Discrepancies will be brought to the attention of RAD. MALPF will request the auditor's information to pursue recovery of the aforementioned underpayments by the counties.

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