



DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

April 7, 2014

Karl S. Aro
Executive Director

Thomas J. Barnickel III, CPA
Legislative Auditor

Senator Edward J. Kasemeyer
Chairman, Senate Budget and Taxation Committee
Miller Senate Office Building, 3 West Wing
11 Bladen Street
Annapolis, Maryland 21401

Delegate Norman H. Conway
Chairman, House Appropriations Committee
House Office Building, Room 121
6 Bladen Street
Annapolis, Maryland 21401

Dear Senator Kasemeyer and Delegate Conway:

The Office of Legislative Audits (OLA) has conducted a review of the actions taken by the Maryland Department of the Environment (MDE) to resolve the four repeat findings (presented as three findings) in our November 21, 2011 audit report. This review was conducted in accordance with a requirement specified in the April 2013 *Joint Chairmen's Report* (JCR), page 154. The JCR required that, prior to release of \$100,000 of its administrative appropriation for fiscal year 2014, MDE must take corrective action on all repeat audit findings. The JCR language further provided that OLA submit a report to the budget committees listing each repeat audit finding along with a determination that each repeat finding was corrected within sufficient time to allow 45 days for the budget committees to review and release the funds prior to the end of fiscal year 2014.


The November 21, 2011 MDE audit report contained four repeat audit findings presented as three findings (findings 1 [which represented a merger of two findings], 4, and 10). In accordance with the aforementioned JCR requirement, MDE provided a report to OLA, dated December 30, 2013, detailing the corrective actions that MDE has taken with respect to these repeat audit findings. We reviewed this report and related documentation, performed limited tests and analyses of the information, and held discussions with MDE personnel, as deemed necessary, to assess the implementation status of the related recommendations. Our review did not constitute an audit conducted in accordance with generally accepted government auditing standards.

MDE's December 30, 2013 status report indicated that the recommendations for the repeat findings had been addressed. Our review determined that MDE had taken the necessary corrective actions to resolve two of the three findings that MDE's report indicated had been corrected. For the third finding, the actions taken did not satisfactorily address the related recommendations.

A summary of OLA's assessment of the status of each of the repeat audit findings is included in the attached Exhibit 1. Exhibit 2 contains OLA's assessments regarding the repeat recommendations that had not been resolved. After discussing our review results, MDE generally agreed with the accuracy of the information presented and indicated that the remaining corrective actions will be taken. We wish to acknowledge the cooperation extended to us by MDE during this review.

We trust our response satisfactorily addresses the JCR requirement. Please contact me if you need additional information.

Sincerely,



Thomas J. Barnickel III, CPA
Legislative Auditor

cc: Senator James C. Rosapepe, Co-Chair, Joint Audit Committee
Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Joint Audit Committee Members and Staff
Senator Thomas V. Mike Miller, Jr., President of the Senate
Delegate Michael E. Busch, Speaker of the House of Delegates
Governor Martin J. O'Malley
Comptroller Peter V.R. Franchot
Treasurer Nancy K. Kopp
Attorney General Douglas F. Gansler
Secretary T. Eloise Foster, Department of Budget and Management
Robert M. Summers, Ph.D., Secretary, MDE
Kathy M. Kinsey, Deputy Secretary, Operations and Regulatory Programs, MDE
Donna A. Dancy, Director, Operational Services Administration, MDE
Wayne S. Nelms, Manager, Office of Internal Audit, MDE
Joan Peacock, Manager, Audit Compliance Unit, DBM
Karl S. Aro, Executive Director, Department of Legislative Services
Andrew D. Gray, Policy Analyst, Department of Legislative Services

Exhibit 1 to April 7, 2014 Letter to Joint Chairmen

Status of Repeat Findings in OLA's November 21, 2011 Audit Report on the Department of the Environment

| Prior Recommendations Pertaining to Repeat Findings | Status Based on OLA Review |
|---|----------------------------|
| Enterprise Environmental Management System (EEMS) 1. We recommend that MDE provide the General Assembly's budget committees and the Department of Information Technology with a full disclosure of EEMS project status. Specifically, we recommend that MDE disclose a. the system's actual usage by the programs implemented in the system, b. all system functionality deficiencies affecting the usefulness of the system, and c. the funding necessary to fully implement all intended programs and functions of EEMS. | Corrected |
| Permitting, Compliance, and Enforcement 4. We recommend that MDE a. establish procedures to identify and pursue property owners who fail to register affected lead paint properties and pay the annual registration fee, and b. investigate the property owners noted in the audit report and take appropriate action to ensure the owners register the properties and pay any registration fees owed to MDE. | Not Resolved |
| Information Systems Security and Control 10. We recommend that MDE develop and implement a current and complete information systems disaster recovery plan in accordance with the State of Maryland's <i>Information Technology Disaster Recovery Guidelines</i> . | Corrected |

Shaded recommendations are more fully described in Exhibit 2.

Exhibit 2 to April 7, 2014 Letter to Joint Chairmen

OLA's Findings Regarding Repeat Findings That Had Not Been Resolved

Permitting, Compliance, and Enforcement

Prior Report Recommendations – Finding 4

We recommend that MDE

- a. establish procedures to identify and pursue property owners who fail to register affected lead paint properties and pay the annual registration fee (repeat), and**
- b. investigate the property owners noted in the audit report and take appropriate action to ensure the owners register the properties and pay the registration fees owed to MDE (repeat).**

Status: Not Resolved

In May 2012, MDE engaged Maryland Environmental Services to produce a mass mailing with the purpose of getting owners to register affected lead paint properties and pay the registration fees owed to MDE. This mailing covered the renewal periods of 2005 through 2012 and was sent in September 2012. In addition, according to MDE's December 30, 2013 status report, the mass mailing generated thousands of additional unresolved cases and it may take several years to resolve this backlog. Consequently, we were advised by MDE management that it does not intend to continue this process in the future and that MDE is developing new procedures to identify and pursue property owners who fail to register affected lead paint properties.

During our review, we found that the follow-up process was not comprehensive or timely, and we found populations of owners who were not identified by MDE through the mass mailing who should have, but had not, registered. Regarding the investigations of property owners, we found that MDE did not investigate a portion of the 3,000 property owners noted in the audit report. Documentation indicates that, although certain property owners' cases have been resolved through collection of fees or other action, at least 900 cases are still open pending additional follow-up. Furthermore, we were advised that, in some cases, MDE, in consultation with its legal counsel, has decided to abate outstanding fees greater than three years old based on its interpretation of State law.