

# Audit Report

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## Maryland Agricultural Land Preservation Fund

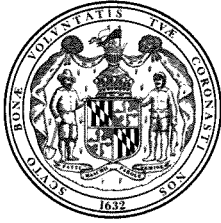
Fiscal Year Ended June 30, 2012

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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

Karl S. Aro  
Executive Director

April 30, 2013

Thomas J. Barnickel III, 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, 2011 and ending June 30, 2012. 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 did not ensure that all easement violations were resolved in a timely manner.

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, reading "Thomas J. Barnickel III".

Thomas J. Barnickel III, 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 funding from State transfer taxes, agricultural transfer taxes, and local subdivision matching funds. In addition, MALPF uses proceeds of General Obligation bonds to fund easement purchases. No State transfer taxes were received by the Fund during fiscal year 2012 as a result of the Budget Reconciliation and Financing Act of 2011 which transferred these collections to the State's General Fund. According to MALPF's records, since inception through June 30, 2012, it had purchased 2,078 easements on 283,915 acres of land for a total cost of approximately \$610 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, 2012. 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, 2012, the total resources available to finance future expenditures including easement acquisitions were \$22,761,988. The fund balance in the Special Revenue Fund was \$10,616,166 as of June 30, 2012. 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 \$12,145,822 at June

30, 2012. The fund balance as of June 30, 2012 in the Installment Contracts Fund (\$6,479,232) 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 two findings contained in our preceding audit report dated June 6, 2012. We determined that MALPF satisfactorily addressed both of these findings.

## **Findings and Recommendations**

### **Easement Violations**

#### **Finding 1**

**The Maryland Agricultural Land Preservation Foundation (MALPF) did not ensure that all noted easement violations were resolved in a timely manner.**

#### **Analysis**

MALPF did not ensure that all noted easement violations were resolved in a timely manner. Violations may be noted, for example, during periodic easement inspections performed by the counties, and include conditions such as an improper dwelling on the property or a subdivision problem. Although a record of easement violations was established in a database, MALPF did not periodically review the database to ensure follow up was performed and corrective actions had been taken on all violations by the landowner to comply with easement terms.

As of January 31, 2013, the current MALPF database indicated approximately 281 unresolved violations. According to MALPF management, 33 of these violations were duplicates but, of the remaining 248 violations, it considered 31 violations to be either high priority (such as subdivision violations) or medium priority (such as debris issues). According to MALPF records, these violations have remained unresolved for periods of up to 6 years.

As a result of the aforementioned condition, MALPF lacked assurance that noted easement violations were resolved in a timely manner and that the land owners complied with the terms of the easement. The MALPF *Easement Inspection Policy* requires that the counties perform inspections on a minimum of 10 percent of their existing State funded easement properties and 100 percent of their federally funded easement properties each year. Inspection reports submitted by

the county offices are entered into MALPF's database, and MALPF is responsible for notifying the landowners of noted violations. State regulations allow MALPF to impose civil penalties of \$2,500 per day per violation (up to a \$50,000 maximum) on a landowner as a result of uncorrected violations although no penalties were imposed during fiscal year 2012.

#### **Recommendation 1**

##### **We recommend that MALPF**

- a. perform appropriate and timely follow-up actions on outstanding easement violations to ensure that corrective actions were taken; and**
- b. determine the current status of the aforementioned unresolved violations and impose penalties, if deemed appropriate.**

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

We have audited the Maryland Agricultural Land Preservation Fund (Fund) for the fiscal ending June 30, 2012. 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 a finding relating to a condition that we consider to be a significant deficiency 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. This finding is also regarded as a significant instance of noncompliance with applicable laws, rules, or regulations.

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 Fund and Installment Contracts Financial Activity Fiscal Year Ended June 30, 2012

	Special Revenue	Installment Contracts	Total (Memorandum Only)
<b>REVENUES:</b>			
Local subdivision matching funds for easement purchases	\$ 7,939,756		\$ 7,939,756
Agricultural transfer taxes	1,861,147		1,861,147
Interest earnings on funds reserved for installment purchases		\$ 134,928	134,928
Other non-recurring receipts	38,996		38,996
<b>Total Revenues</b>	<b>9,839,899</b>	<b>134,928</b>	<b>9,974,827</b>
<b>EXPENDITURES:</b>			
Easement acquisitions	6,316,210		6,316,210
Payments made on easement purchases in prior years on an installment basis		2,082,192	2,082,192
Administration	1,258,057		1,258,057
Land appraisal, legal and settlement fees	144,945		144,945
<b>Total Expenditures</b>	<b>7,719,212</b>	<b>2,082,192</b>	<b>9,801,404</b>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES</b>	<b>2,120,687</b>	<b>(1,947,264)</b>	<b>173,423</b>
<b>FUND BALANCES, July 1, 2011</b>	<b>\$ 8,495,479</b>	<b>\$ 8,426,496</b>	<b>\$ 16,921,975</b>
<b>FUND BALANCES, June 30, 2012</b>	<b>\$ 10,616,166</b>	<b>\$ 6,479,232</b>	<b>\$ 17,095,398</b>

**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 Fund received no State property transfer taxes during fiscal year 2012 as a result of the Budget Reconciliation and Financing Act of 2011 which transferred these collections to the State's General Fund.

(3) Additional easement acquisitions totaling \$14,304,929 were made with bond proceeds (which are not accounted for in the Special Revenue Fund above) during the fiscal year ended June 30, 2012. As of June 30, 2012, additional funds available for easement acquisitions include General Obligation Bond funds from the Consolidated Capital Bond Loans of 2009 (\$5,747), 2010 (\$9,253), 2011 (\$3,424,822), and 2012 (\$8,706,000).

## APPENDIX



# Maryland Department of Agriculture

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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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April 29, 2013

Thomas J. Barnickel, III, CPA  
Legislative Auditor  
State of Maryland – Office of Legislative Audits  
State Office Building, Room 1202  
301 West Preston Street  
Baltimore, MD 21201

Dear Mr. Barnickel:

Attached you will find our responses to your draft audit report for the Maryland Agricultural Land Preservation Foundation for the period ending June 30, 2012.

Per your request, we will submit both paper and electronic copies to:  
[response@ola.state.md.us](mailto:response@ola.state.md.us).

If you have any questions or specific issues regarding our response, please contact Jim Wallace at 410.841.5855 or via email: [James.Wallace@maryland.gov](mailto:James.Wallace@maryland.gov).

Sincerely,

Earl F. Hance  
Secretary

Attachment: Responses to Draft Audit Report

**Finding**

**Maryland Agricultural Land Preservation Foundation (MALPF) does not have adequate procedures in place to monitor easement violations and to ensure that violations noted are resolved in a timely manner.**

Agency Response:

MALPF concurs with the finding and acknowledges the need for better communication among staff for better follow up and resolution of easement violations.

MALPF has an existing database to record and monitor easement violations. MALPF staff understands that they must adhere to a regular review of the database and commit to a more consistent population of the database. The monitoring and enforcement coordinator will conduct a comprehensive review of the database three times a year, and MALPF administrators will commit to entering the violations that they identify into the database. While the database may not currently reflect the latest information, MALPF regularly reviews existing violations, prioritizes them in terms of gravity, and addresses them in a timely manner.

Both the administrators and the monitoring and enforcement coordinator work closely with the assigned Assistant Attorney General to address violations. Working together, the staff and Assistant Attorney General notify landowners about violations by letter, and then engage in a negotiation process with the landowner or the landowner's attorney to resolve the violation.

**AUDIT TEAM**

**Adam Westover, CPA**  
Audit Manager

**J. Alexander Twigg**  
Audit Senior