

Audit Report

Maryland Food Center Authority

March 2011



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

March 2, 2011

Bruce A. Myers, CPA
Legislative Auditor

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 Food Center Authority (MFCA) for the period beginning August 22, 2007 and ending July 19, 2010. MFCA is responsible for establishing, maintaining, operating, and promoting consolidated food markets within the State, and owns and operates the Maryland Wholesale Produce and Seafood Markets, which are located in Jessup, Maryland.

Our audit disclosed that MFCA did not have adequate controls in place to ensure that certain collections received were subsequently deposited. In addition, MFCA authorized a contractor to perform work that was outside the contract scope without preparing a contract modification and did not sufficiently document certain other aspects of this contract, such as the competitive bid process. MFCA also did not solicit competitive bids, as required, for certain goods and services purchased.

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,

Bruce A. Myers, CPA
Legislative Auditor

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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 the Maryland Wholesale Produce and Seafood Markets which are located in Jessup, Maryland.

MFCA receives no State general funds and its operations are primarily funded through entrance and registration 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 \$4.6 million and \$4.3 million, respectively, for the fiscal year ended June 30, 2010.

Financial Statement Audits

MFCA engaged an independent accounting firm to perform audits of its financial statements for the fiscal years ended June 30, 2008, 2009, and 2010. In the related audit reports, the firm stated that MFCA's financial statements presented fairly, in all material respects, its financial position and results of its operations for the years then ended in conformity 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 one finding contained in our preceding audit report dated January 22, 2008. We determined that MFCA satisfactorily addressed that finding.

Findings and Recommendations

Cash Receipts

Finding 1

The Maryland Food Center Authority (MFCA) had not established adequate internal controls to ensure that certain recorded collections were subsequently deposited.

Analysis

MFCA lacked adequate internal controls over its collections received at its Administration building. Specifically, the employee who performed the deposit verifications did not compare the validated deposit slip to the document of initial recordation of collections received. Rather, the deposit verification was performed using a daily deposit summary subsequently prepared by an employee with access to collections. Consequently, there is no assurance that all collections received and recorded were subsequently deposited. According to MFCA records, collections totaled approximately \$4.5 million during fiscal year 2010, of which \$4.1 million were received at the MFCA's Administration building. The remaining collections were received at produce and seafood markets run by the MFCA.

The Comptroller of Maryland's *Accounting Procedures Manual* requires that receipts recorded on initial source documents be traced to deposit by an employee independent of the cash receipts functions.

Recommendation 1

We recommend that independent deposit verifications be performed using the documents of initial recordation of collections.

Purchasing and Disbursements

Finding 2

MFCA authorized a contractor to perform work that was outside the contract scope without preparing a contract modification and did not adequately document certain other aspects of the contract.

Analysis

MFCA authorized a contractor to perform paving services in the Maryland Wholesale Produce Market that were outside the contract scope without preparing a contract modification, did not maintain documentation to justify certain repairs,

and did not retain certain bid documentation for this contract. MFCA entered into a contract for paving services in September 2007 at an initial cost of approximately \$1.2 million. During the period from September 2007 to May 2008, payments made to the contractor totaled approximately \$1.6 million. Specifically, our review disclosed the following conditions:

- Payments totaling approximately \$264,900 were made to the contractor for additional work performed that was outside the scope of the original project, such as to address unexpected site conditions; however, approved contract modifications were not prepared to support the additional work performed, as required. In this regard, the related contract required that all proposed changes in the scope of the work be submitted in writing to MFCA and, if approved, that the contract be appropriately modified. Contract modifications protect the parties in the event of legal disputes regarding price and work quality. We were advised by MFCA management personnel that the additional work was verbally approved by MFCA's project engineer.
- MFCA paid the contractor approximately \$90,900 for repairs to a portion of the road in front of the Market entrance even though the road was county property. We were advised by MFCA personnel that the county had refused to pay for the cost of the repairs since the damages were caused by truck traffic entering and exiting the Market; however, MFCA was unable to provide us with documentation supporting its assertion. MFCA approved a contract modification to pay for these costs, as they were not included in the original contract.
- MFCA did not maintain copies of bids submitted by the losing bidders on the original \$1.2 million contract. According to the bid tabulation sheet, seven bids were received, but MFCA could only provide us with a copy of the bid submitted by the winning bidder.

Although MFCA is exempt from state procurement regulations, it has developed its own procurement policies to encourage competition. These policies do not specifically address contract modifications or require maintaining bid documentation. However, as previously mentioned, the contract required that scope changes be written and approved and sound business practices would include retaining bid documentation.

Recommendation 2

We recommend that MFCA

- a. ensure that work performed outside of the scope of the original project is formally approved by contract modifications, and**
- b. maintain documentation to support all contract modifications and bids received.**

Finding 3

MFCA procured certain goods and construction services without obtaining competitive bids, as required by its procurement policy.

Analysis

MFCA procured certain goods and construction services without obtaining competitive bids. Specifically our test of 16 procurements, which totaled approximately \$2.9 million, disclosed 3 procurements, totaling \$250,100, that were procured without obtaining competitive bids. For example, MFCA purchased two trash compactors at a cost of \$128,000 to be installed on trash trucks already owned by MFCA. We were advised by MFCA management personnel that MFCA purchased the trash compactors from the vendor recommended by the vendor who supplied the trash trucks, without obtaining bids from other vendors.

As previously mentioned, MFCA is exempt from State Procurement Regulations but has established its own written procurement policy. MFCA's procurement policy generally requires that competitive bids be obtained for purchases of goods and services exceeding \$25,000, and for all construction services. Without obtaining competitive bids, there is no assurance that MFCA received the best price for the goods and services purchased.

Recommendation 3

We recommend MFCA procure goods and services in accordance with its procurement policy.

Teleworking

Finding 4

Teleworking by certain MFCA employees was not adequately documented and monitored, as required.

Analysis

Teleworking by certain MFCA employees was not adequately documented and monitored as required by the Department of Budget and Management's (DBM) *Telework Policy*. MFCA management advised that it had adopted this policy during the period of our audit. Specifically, our review of required documentation for the four MFCA employees who were permitted to telework noted the following conditions:

- Annual telework agreements either were not on file or were not prepared on a current basis. For example, the agreement for one employee had not been updated since January 2007.
- A remote work site self-certification checklist was not on file for any of the four employees.
- Daily telework plans detailing the work to be performed on each telework day were not completed for any of the four employees. We were advised that two management employees teleworked twice a week and one management employee teleworked on an occasional basis. The fourth employee, who provided administrative support, lived in Florida and teleworked on a full-time basis.

The DBM *Teleworking Policy* states that employees may telework on an occasional basis. Additionally, the *Policy* requires that an annual teleworking agreement be prepared for each employee, that a remote work site self-certification be prepared, and that daily telework plans outlining the work to be accomplished be prepared for each day that an employee teleworks. The *Policy* requires that all of these documents be subject to supervisory review and approval.

Subsequent to our inquiries, MFCA created its own telework policy. The policy has similar requirements of the DBM *Teleworking Policy* and also allows for employees to telework more than four days a week with the approval of the Executive Director. MFCA had 30 budgeted employees.

Recommendation 4

We recommend MFCA comply with its telework policy.

Audit Scope, Objectives, and Methodology

We have audited the Maryland Food Center Authority (MFCA) for the period beginning August 22, 2007 and ending July 19, 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 MFCA's financial transactions, records, and internal controls, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the status of the findings included 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 cash receipts, procurements and disbursements, accounts receivable, and payroll. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of MFCA'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.

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 findings 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 report also includes findings regarding 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.

MFCA's response 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 MFCA regarding the results of our review of its response.



APPENDIX

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February 24, 2011

Mr. Bruce A. Myers, 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. Myers:

We have received the draft Legislative Auditor's report for the period beginning August 22, 2007 and ending July 19, 2010.

We have reviewed the Auditor's comments regarding the following deficiencies within the MFCA's procedures. The following step has been included in the MFCA's procedures to correct this concern.

Cash Receipts: MFCA has internal controls in place to give assurance that all collections received are recorded. In addition to an employee, independent of the collection process, verifying that the total amount deposited at the bank agrees to the amount collected according to the MFCA deposit summary, MFCA has implemented OLA's recommendation and now has another employee, independent of the collection process; verify the deposit to the check log maintained by the MFCA.

Purchasing and Disbursements:

MFCA paid additional payments to a contractor, and agrees that the appropriate written contract change orders were not completed. MFCA's engineers were on-site and quantified all additional work being performed, using unit prices that were included in the original contract. MFCA was supplied with daily reports to support the additional work, and MFCA engineers and MFCA procurement personnel reviewed and approved all invoices prior to payment for such work. MFCA will document all change orders for contracts using an approved format.

Concrete work performed for a portion of the Howard County road that borders the entrance of the Produce Market was severely damaged by tractor-trailers entering the Produce Market. MFCA and its engineers determined this work to be necessary to provide a safe entry to the Market. Howard County did not have funds in its budget for this work. MFCA and Howard County signed a Memorandum of Understanding (MOU) for the work to be completed as part of an existing asphalt/concrete project at the Produce Market. The MOU was unavailable at the time of the audit. MFCA has

initiated a stronger record-keeping system and plans to include document scanners to electronically store MFCA data.

MFCA acknowledges that the original bid documents submitted by contractors who did not win the contract were not available. MFCA believes the documents were lost or destroyed during a recent office renovation. MFCA will maintain better control over its documents in the future.

Procured Goods and Services:

MFCA determined that it was necessary to use a particular vendor for the purchase of two trash compactors to be installed on one existing trash truck and one new trash truck. Using this vendor provided the installation of equipment on these vehicles to be the most timely and efficient manner to complete this work and maintain all warranties. MFCA is responsible for the removal of approximately 20 tons of refuse six days a week. The purchase of this equipment is necessary to provide the proper sanitation of the Market and time a truck is out of service is a major factor.

MFCA procured construction services for the Produce and the Seafood Market and contracted with these vendors based on contracts that were already underway. These contracts should have been prepared as a change order/amendment to the original contract. MFCA will maintain more adequate documentation for future procurements

Teleworking:

MFCA acknowledges that documentation maintained on file for employees who are part of the Telework Project was not complete and/or not up-to-date. MFCA has strengthened the MFCA Telework Policy effective November 30, 2011. It includes Telework Agreements to be signed on an annual basis, Remote Work Site Self-certifications, and written Telework Plans for each authorized Teleworker that require supervisory approval. The Revised Telework Policy was submitted to the OLA's auditor prior to the end of this audit.

We appreciate the recommendation of the Legislative Auditor and the suggestion offered to bring the MFCA in compliance with the Comptroller of the Treasury's Accounting Procedures Manual. In addition to the above mentioned change, the MFCA has implemented other procedures to further strengthen the Authority's internal control.

Best regards,



Donald J. Darvall

cc: Elizabeth Sandra Vary, Chair

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