

Audit Report

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**Department of Transportation  
Maryland Port Administration**

February 2009

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**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

February 23, 2009

Delegate Steven J. DeBoy, Sr., Co-Chair, Joint Audit Committee  
Senator Verna L. Jones, Co-Chair, Joint Audit Committee  
Members of Joint Audit Committee  
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Maryland Department of Transportation – Maryland Port Administration (MPA) for the period beginning December 27, 2004 and ending January 7, 2008. MPA operates State-owned port facilities and promotes the economic well-being of Maryland's ports.

Our audit disclosed several deficiencies related to the monitoring of MPA's contracts. Specifically, MPA did not adequately monitor certain contracts for architecture and engineering services to ensure the propriety of the related expenditures. We also noted that MPA could not document that it adequately monitored certain truck turnaround times to ensure that the stevedoring contractor was complying with this key performance requirement, which is designed to maximize terminal efficiency. Additional deficiencies were noted in the areas of purchasing and disbursements, cash receipts, information systems security and control, and a personal services contract.

An Executive Summary of our findings can be found on page 5. The Department of Transportation's response to this audit, on behalf of MPA, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by MPA.

Respectfully submitted,

Bruce A. Myers, CPA  
Legislative Auditor



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# Executive Summary

## Legislative Audit Report on Maryland Port Administration (MPA) February 2009

- **MPA did not adequately monitor payments and project tasks under certain blanket contracts for architectural and engineering services, resulting in overspending on certain tasks and a lack of assurance that payments were proper.**

MPA should track payments and project tasks for architectural and engineering services, determine the propriety of overpayments, and take appropriate corrective action.

- **MPA could not document that it adequately monitored a key performance standard in the contract for stevedoring services at the Seagirt Marine Terminal, which is designed to maximize terminal efficiency.**

MPA should document its monitoring of contract performance standards and take corrective action as necessary.

- **MPA did not establish proper online controls over purchasing and disbursements to help prevent unauthorized transactions. Also, MPA did not always use the appropriate online payment method for disbursement transactions to help ensure that invoices agree with the related purchase orders and receiving reports.**

MPA should use the appropriate online capabilities and payment methods for the procurement and subsequent payment of goods and services as required.

- **Other internal control deficiencies were noted with respect to MPA's operations, including cash receipts, information systems security and control, and a personal services contract.**

MPA should take the recommended actions to improve controls in these areas.



## Background Information

### Agency Responsibilities

The Maryland Port Administration (MPA) is part of the Maryland Department of Transportation (MDOT) and operates State-owned port facilities and promotes the economic well-being of Maryland's ports. MPA is responsible for managing the State's investment in port facilities, developing trade through promoting maritime business, and coordinating the delivery of services to the maritime community (for example, dredging and navigational aids). According to the State's records, MPA's fiscal year 2007 expenditures totaled approximately \$174 million. Furthermore, according to MPA's records, during fiscal year 2007, cargo shipped through MPA's port facilities totaled approximately 10.1 million tons, and overall port revenues totaled \$94.6 million, the majority of which related to terminal activity (such as fees for use of MPA's piers, wharfs, and equipment) as depicted in the following table.

<b>Fiscal Year 2007 Revenue (Thousands)</b>						
<b>(Unaudited)</b>						
<b>Revenue Source</b>	<b><u>Terminal Activity</u></b>			<b><u>Other Activity</u></b>		<b>Total</b>
	<b><u>Seagirt</u></b>	<b><u>Dundalk</u></b>	<b><u>Other</u></b>	<b><u>Trade Ctr</u></b>	<b><u>Dredging</u></b>	
Dockage	\$ 1,411	\$ 1,820	\$ 981	\$ -	\$ -	\$ 4,212
Wharfage	3,814	4,229	4,884	-	-	12,927
Cranes	4,230	1,847	208	-	-	6,285
Rentals	4,512	11,080	8,125	2,396	407	26,520
Misc Services	1,061	1,536	751	252	-	3,600
Non-Operating Revenue	-	232	15	-	865	1,112
Terminal Services	39,968	-	-	-	-	39,968
<b>Total</b>	<b>\$ 54,996</b>	<b>\$ 20,744</b>	<b>\$ 14,964</b>	<b>\$ 2,648</b>	<b>\$ 1,272</b>	<b>\$ 94,624</b>

**Source:** MPA records

### World Trade Center Operating Losses

MPA owns and manages the World Trade Center (WTC), a 32-story office building located at the Inner Harbor in Baltimore. Due to flood damage from Hurricane Isabel in September 2003, and a subsequent decision by the State to decrease the building's occupancy to make it easier to sell, the WTC occupancy level declined to approximately 43 percent as of March 2008. As a result,

according to MPA's records, the WTC incurred operating losses of \$1.3 million in fiscal year 2007 and \$2.3 million in fiscal year 2008.

Subsequently, in fiscal year 2007, the State decided to retain ownership of the WTC and MPA implemented measures to increase occupancy. For example, the Maryland Department of Business and Economic Development relocated to the WTC in January 2009, which MPA estimates will increase the building's occupancy level to approximately 71 percent.

The April 2007 *Joint Chairmen's Report* required MPA to hire a real estate broker to handle all leasing and property management functions at the WTC to help increase the occupancy rate. In response to the *Report*, MPA awarded a five-year contract for building operation, maintenance, and leasing services for WTC that was approved by the Board of Public Works on May 21, 2008.

## **Severance Payments**

During our audit period, two management employees received severance payments totaling \$375,828. Specifically, in April 2005, MPA terminated the services of the Executive Director and paid \$115,453 in severance, representing six month's salary and benefits, as provided for in the related employment contract. MPA entered into a five-year employment contract with a new Executive Director in May 2005. However, in July 2007, MPA terminated the services of this Executive Director and paid \$260,375 in severance, representing one year's salary and benefits, and relocation expenses, as provided for in the related employment contract. MPA then rehired the former Executive Director that had been terminated in April 2005; the employment terms do not include a severance package.

In the April 2008 *Joint Chairmen's Report*, the legislative budget committees discouraged MDOT from using such employment contracts since these contracts hamper the ability of the Secretary of MDOT to make necessary personnel changes. In its response to the legislative budget committees, MDOT stated that MPA had no current employment contracts.

## **Status of Findings From Preceding Audit Report**

Our audit included a review to determine the status of six of the seven findings contained in our preceding audit report dated August 31, 2005. We determined that MPA had satisfactorily resolved these six findings. The status of the remaining finding will be reviewed during our audit of the Department of Transportation – Office of Transportation Technology Services.

# Findings and Recommendations

## Contract Monitoring

### **Finding 1**

**The Maryland Port Administration (MPA) did not adequately monitor certain blanket contracts for architectural and engineering services, resulting in overspending and a lack of assurance that contract payments were proper.**

### **Analysis**

MPA did not adequately monitor certain blanket contracts for architectural and engineering (A&E) services. State regulations allow units of the Department of Transportation (which includes MPA) to enter into blanket contracts for these services, which are exempt from approval by the Department of General Services. MPA enters into multi-year contracts with firms for miscellaneous A&E services at the Port of Baltimore and judgmentally assigns specific tasks (that is, projects with specific deliverables) to the firms under each contract based on their respective areas of expertise. Under the terms of each contract, MPA was to issue an unspecified number of task orders documenting the work to be performed, the personnel assigned to the task, and the fees to be charged as stated in each contract. For routine tasks, MPA immediately issues a written task order, which includes the costs to be paid to the vendor. However, in most cases, MPA requests the contractor to submit the specifications and an estimate of billable costs; after its review, MPA then issues a written task order. In accordance with the contracts, a vendor should not exceed the amount authorized for a task order without the prior written approval of MPA. Our review of MPA's procedures for monitoring the tasks and related costs for five of these contracts, with awards totaling \$13 million, disclosed the following conditions:

- MPA did not always track spending on individual tasks to ensure that it did not exceed the related costs established in the task order. Rather, for three of the five contracts reviewed, MPA relied on the firms to track the spending for each project. For example, for a \$3.5 million contract with one firm covering the period from September 2004 through September 2008, the contract amount had been fully expended by April 2007. MPA subsequently awarded a new four-year contract totaling \$2.5 million to this same firm in June 2007. The new contract included 14 tasks from the previous contract even though, according to progress reports received from the firm, these tasks had been 100 percent completed under the previous contract. Additionally, under the previous contract, the costs for 8 of these 14 tasks exceeded the amounts authorized in the task orders by \$211,000. For the aforementioned 14 tasks, MPA management could not explain, at the conclusion of the previous contract, whether the 14 tasks were actually incomplete, or whether additional

costs were needed to be incurred to complete them. MPA assigned additional budgets totaling \$562,600 to these 14 tasks under the new contract and, as of December 29, 2007, \$706,100 had been spent for those tasks. We were advised by MPA that it had not provided written approval for any task for which the actual costs exceeded the authorized task order amount.

- MPA did not issue task orders timely. Specifically, of the 24 projects listed on a December 2007 invoice applicable to the aforementioned contract (which MPA paid), we noted that, as of July 8, 2008, MPA had not issued task orders for 7 projects, for which invoiced costs totaled \$229,776. Furthermore, for 13 other projects assigned to the firm, MPA did not issue task orders until after related invoices totaling \$372,429 had been paid.
- Documentation to support MPA's review of invoices for A&E services, which consisted primarily of charges for hours worked by contractor staff and subcontractors, was not retained. Specifically, although MPA management advised us that MPA employees verified the propriety of the hours billed and rates charged, there was no documentation to support those verifications.

#### **Recommendation 1**

**We recommend that MPA adequately monitor blanket contracts for architectural and engineering services. Specifically, we recommend that MPA**

- a. track spending on individual tasks to ensure that payments do not exceed amounts authorized,**
- b. determine the propriety of the aforementioned overpayments and take appropriate corrective action,**
- c. in accordance with the terms of the contracts, ensure that approved task orders are issued authorizing work before it is performed,**
- d. verify the propriety of invoices for A&E services, and**
- e. retain adequate documentation of the invoice verification process.**

#### **Finding 2**

**MPA could not document that it adequately monitored a key performance provision of its stevedoring contract.**

#### **Analysis**

MPA could not document that it adequately monitored a key performance aspect of its stevedoring contract at the Seagirt Marine Terminal. The stevedoring contract includes two key performance requirements impacting container cargo volume: truck turnaround times, and the number of crane moves per hour. These two indicators are also Managing for Results (MFR) performance measures

impacting MPA's goal of maximizing cargo throughput, terminal efficiency, and the economic benefit of Maryland's port facilities.<sup>1</sup> Although MPA could document monitoring of, and contractor success in meeting, the crane move goals in the contract, it did not have a process to ensure the contractor complied with the required truck turnaround times.

Specifically, MPA's contract provided for a maximum truck turnaround time of 30 minutes for a single move (that is, either load or unload a container onto or off of a truck), and provided MPA with the right to reduce payments to the contractor when those turnaround times were not met. During the period from January to April 2008, the contractor reported monthly average turnaround times ranging from 36 to 41.5 minutes; however, MPA had not reduced contractor payments. Furthermore, according to the State's records, the average turnaround times for fiscal year 2006 and for fiscal year 2007 were each 40 minutes. Excessive turnaround times could reduce the number of containers that can be loaded or unloaded from trucks within a specified time.

MPA management advised us that that they constantly monitor the turnaround times and that several factors beyond the control of the contractor (such as the availability of truck chassis when unloading a ship) impacted the turnaround times. However, MPA management was unable to provide an analysis of the turnaround time that supported their assertion that the delays were not caused by the contractor. MPA management also advised us that they met with the contractor and members of the trucking industry on a regular basis to identify methods to improve truck turnaround times. In addition, MPA's legal counsel advised us that the contract provision allowing for reduced payments to the contractor is not enforceable because it is vague.

This stevedoring contract is effective from November 1, 2001 through October 31, 2009, at a cost not to exceed \$297 million. The contractor provides vessel services (loading and unloading containers onto/off of vessels) and terminal services (storing, retrieving, and transporting containers) at the Seagirt Marine Terminal. According to the State's accounting records, the contractor received \$41.9 million during fiscal year 2008 for these services.

## **Recommendation 2**

### **We recommend that MPA**

- a. document its monitoring of contractor compliance with truck turnaround times;**

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<sup>1</sup> A review of industry literature disclosed that both of these measures are deemed to be significant globally, with quicker truck turnaround times and more crane moves per hour directly impacting the general success of port operations.

- b. take appropriate corrective action (including the reduction of payments) when contract provisions are not met, or document why no corrective action was warranted; and**
- c. take the necessary actions to establish enforceable contract provisions for failing to meet performance requirements.**

## **Purchases and Disbursements**

### **Finding 3**

**Proper internal controls were not established over the processing of purchasing and disbursement transactions.**

### **Analysis**

MPA did not fully use the available security features of the Maryland Department of Transportation's Financial Management Information System (FMIS) to restrict user access and to prevent unauthorized purchasing and disbursement transactions. As a result, numerous employees could process critical transactions without independent approval. For example, 13 employees could initiate purchase orders without any independent online approval and one employee could both initiate and approve certain disbursements. In addition, MPA did not periodically monitor the FMIS security status granted to its employees as required by the Department of Budget and Management's (DBM) *Internal Control and Security Policy and Procedures Manual*.

According to the State's accounting records, during fiscal year 2007, MPA used FMIS to process disbursements totaling approximately \$140 million.

### **Recommendation 3**

**We recommend that MPA**

- a. fully use the available security features by establishing independent online approval requirements for all critical purchasing and disbursement transactions;**
- b. periodically monitor the system security status of its employees, as required; and**
- c. document its reviews of the system security status of its employees.**

**Finding 4****MPA did not always use the appropriate payment method for disbursement transactions.****Analysis**

MPA did not always use the appropriate payment method for disbursement transactions. According to the State's accounting records, during the period from July 1, 2004 through January 15, 2008, MPA processed \$505 million of its \$516 million in disbursement transactions (98 percent) using the direct payment method. Our test of 30 invoices totaling \$9.7 million from fiscal years 2006 through 2008 disclosed that 18 invoices totaling \$7.3 million (75 percent) were incorrectly paid using the direct payment method rather than a method that electronically matches the purchase orders and receiving reports, to ensure that the applicable invoices agree with the related supporting documentation.

The DBM *Internal Control and Security Policy and Procedures Manual* states that a match payment method should be used for the purchase of services and commodities. MPA management advised us that the use of the direct payment method is necessary for certain port contracts, such as stevedoring services, since these contracts are difficult to allocate to individual purchase orders due to the complexity of the payment terms. However, our review disclosed that MPA also used this method for routine procurements of services and commodities, for which a match payment option could have been used.

**Recommendation 4****We recommend that MPA use the appropriate online method to process payment transactions.****Cash Receipts****Finding 5****MPA did not establish adequate controls over collections, which totaled \$87.9 million during fiscal year 2008.****Analysis**

MPA did not establish adequate controls over collections totaling \$87.9 million during fiscal year 2008, which primarily consisted of payments from shipping companies and other customers for usage of MPA port facilities (including piers, docks, buildings, and land). For example, our review disclosed the following conditions:

- Deposit verification procedures were not adequate. Although we were advised by MPA personnel that the employee who verified that all deposits, according to bank records, agreed to records prepared during the deposit preparation process, this verification was not documented and this employee also had access to the related collections. Furthermore, this verification was not performed correctly as MPA compared deposited collections back to recorded receipts and, therefore, any collections that were misappropriated before the bank deposit was made would not likely be detected. Rather, deposit verifications should be performed by tracing all collections from the initial recordation source to the related validated deposit tickets.
- Two employees who had access to collections were also responsible for maintaining the related accounts receivable records. Although a management employee approved transactions processed by these two employees, this subsequent review and approval was performed based on documentation that these employees prepared and, therefore, was not an effective control.

As a result of these conditions, collections could be misappropriated without immediate detection. The Comptroller of the Treasury's *Accounting Procedures Manual* requires that an employee independent of the collection process verify that all collections initially recorded were subsequently deposited. The *Manual* further requires that cash receipt and accounts receivable responsibilities be separated.

#### **Recommendation 5**

**We recommend that**

- an employee independent of the cash receipts function verify that recorded collections are subsequently deposited,**
- deposit verifications be documented, and**
- employees with access to collections not have access to the related accounts receivable records.**

**We advised MPA on accomplishing the necessary separation of duties using existing personnel.**

#### **Finding 6 (Policy Issue)**

**MPA should require customers to remit large payments electronically to enhance controls and to expedite deposit of the funds.**

#### **Analysis**

MPA should require customers to remit large payments electronically, rather than in check form, to enhance controls and to expedite deposit of the funds. For example, our review disclosed that, on 15 occasions during fiscal year 2007, MPA

hand carried individual deposits to the bank which totaled more than \$1 million and which included certain high dollar checks. One of the deposits tested, which totaled \$2.1 million, included one check in the amount of \$1.5 million and another check in the amount of \$412,000. Processing such payments manually results in increased exposure to loss or misappropriation as well as the unnecessary delay in deposit while the funds are in transit from the vendor to MPA and from MPA to the bank.

Other State agencies (such as the Office of the Comptroller), which routinely receive large amounts from customers, require that large payments (such as payments in excess of \$10,000) be submitted electronically.

**Recommendation 6**

**We recommend that MPA establish a policy to require customers to remit large payments electronically to enhance controls and to expedite the deposit of the funds.**

## **Information Systems Security and Control**

### **Background**

MPA operates a wide area network connecting various Port of Baltimore marine terminals and office locations. The MPA's wide area network is connected to the broader MDOT wide area network and the Internet.

MPA uses a critical application and a database relating to operations at the Seagirt Marine Terminal. A key component of this application tracks shipping containers that enter and leave the Port. The volume of shipping container activity impacts both payments to the contractor for stevedoring services and revenues received from shipping lines for port activity.

**Finding 7**

**Authentication and monitoring controls over MPA's Seagirt Marine Terminal operations application and database were inadequate.**

### **Analysis**

Authentication and monitoring controls over MPA's Seagirt Marine Terminal operations application and database were inadequate. Specifically, we noted the following conditions:

- The controls over accounts and passwords for authenticating users of MPA's Seagirt Marine Terminal operations application and database were inadequate. Specifically, users of this application must authenticate to the host computer's operating system software and, in some cases, also to the supporting database

software. However, user authentication did not enforce many of the Department of Information Technology's *Access Control Standards* minimum requirements, such as password complexity, password history, and account lockout. For example, 16 accounts on the host computer were set to never change their passwords. In addition, 15 users could sign on to this host computer without a password, and account lockout was not enforced for numerous database users.

- Although database auditing was enabled with regard to certain tables, access to and use of numerous critical database objects and privileges were not set to be audited. Specifically, access to 10 critical tables and 58 database views, and the use of several critical privileges, were not logged. In addition, with respect to the database objects that were logged, while we were advised that reviews of logs were performed, such reviews were not documented.

As a result of these conditions, unauthorized or inappropriate changes to critical application and data files could occur without detection by management.

#### **Recommendation 7**

**We recommend that MPA improve security over its critical application and database. Specifically, we made detailed recommendations, which if implemented, should provide for adequate security over this application and database.**

#### **Finding 8**

**An insecure communications protocol was used to access Seagirt Marine Terminal sensitive information.**

#### **Analysis**

An insecure web-based communications protocol was used to access Seagirt Marine Terminal sensitive information. Sensitive cargo shipping information was appropriately accessible to MPA employees after authentication to the system. However, because an insecure communications protocol was used to access this information, user names, passwords and the sensitive information requested by the authenticated users were transmitted in clear text across the network and over the Internet. This condition left userids, passwords, and sensitive reporting data susceptible to traffic sniffing programs, resulting in potential improper disclosure of this information.

#### **Recommendation 8**

**We recommend that MPA utilize a secure (encrypted) protocol to transmit authentication credentials and sensitive information across its network and the Internet.**

## Personal Services Contract

### **Finding 9**

**Key documents describing the scope of services to be rendered and authorizing payments for a personal services contract were frequently not prepared or approved, as required.**

### **Analysis**

Certain required documents were either not prepared or not approved to support certain payments made under a personal services contract. Specifically, although this contract provided that the individual was to work in accordance with the work schedules established by the Executive Director and/or Deputy Executive Director, no schedules were prepared. Also to document hours worked and to serve as a basis for payment, the individual was required to submit a monthly time report to the Executive Director or Deputy Executive Director for approval. However, our review of the 33 monthly time reports submitted for the period from June 8, 2005 through March 13, 2008 disclosed 17 reports, for which the employee was paid \$141,110, that were not approved by MPA officials as required. We also noted that sufficient detail was not included on some reports to describe the services provided.

MPA management advised us that they verbally assigned responsibilities to this employee and were aware of the work that was being performed. However, due to the lack of documentation and related approvals, there was a lack of assurance that the hours paid for were proper.

### **Recommendation 9**

**We recommend that MPA establish a process to ensure compliance with contractual requirements. Specifically, MPA should prepare the required work schedules and ensure that time reports are properly completed and approved.**



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

We have audited the Department of Transportation - Maryland Port Administration (MPA) for the period beginning December 27, 2004 and ending January 7, 2008. 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 MPA's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. 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. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of MPA'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 payroll support services provided by the State Highway Administration to the MPA. These payroll support services are included within the scope of our audit of the State Highway Administration. In addition, our audit did not include an evaluation of internal controls for federal financial assistance programs and an assessment of MPA's compliance with federal laws and regulations pertaining to those programs because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including MPA. We also did not review the MPA's compliance with federal laws and regulations relating to port operations because it is regulated and monitored by the Department of Homeland Security (DHS), the U.S. Coast Guard, the Transportation Security Administration, and U.S. Customs and Border Protection.

Our audit scope was limited with respect to MPA's cash transactions because the Office of the State Treasurer was unable to reconcile the State's main bank accounts during a portion of the audit period. Due to this condition, we were

unable to determine, with reasonable assurance, that all MPA cash transactions prior to July 1, 2005 were accounted for and properly recorded on the related State accounting records as well as the bank's records.

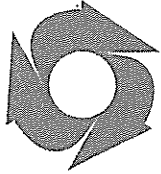
MPA's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of 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 MPA'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 MPA that did not warrant inclusion in this report.

The Department of Transportation's response, on behalf of MPA, 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.

APPENDIX



**Maryland Department of Transportation**  
The Secretary's Office

February 17, 2009

**Martin O'Malley**  
Governor

**Anthony G. Brown**  
Lt. Governor

**John D. Porcari**  
Secretary

**Beverley K. Swaim-Staley**  
Deputy Secretary

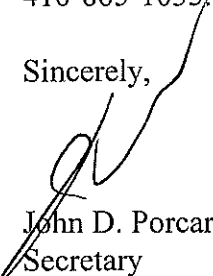
Bruce A. Myers, CPA  
Legislative Auditor  
Office of Legislative Audits  
Department of Legislative Services  
Room 1202  
301 West Preston Street  
Baltimore MD 21201

Dear Mr. Myers:

Enclosed please find the Department's responses to the draft Legislative Auditor's Report dated January 30, 2009 for the Maryland Department of Transportation – Maryland Port Administration for the period of December 27, 2004 through January 7, 2008. Additionally, an electronic version of this document has been sent to your office via e-mail (file name: MPAFinalResponsesDraftReportJAN302009) to [response@ola.state.md.us](mailto:response@ola.state.md.us).

If you or your staff have any questions or need additional information, please do not hesitate to contact me or Mr. David L. Fleming, Chief Financial Officer. Mr. Fleming can be reached at 410-865-1035.

Sincerely,

  
John D. Porcari  
Secretary

Enclosure

cc: Mr. John G. Arnold, Chief Auditor, Office of Audits, Maryland Port Administration  
Mr. David L. Fleming, Chief Financial Officer, Office of Finance, Maryland Department of Transportation  
Mr. Joseph J. Lambdin, Director, Office of Audits, Maryland Department of Transportation  
Mr. Vincent J. Marsiglia, Director, Office of Finance, Maryland Port Administration  
Ms. Beverley K. Swaim-Staley, Deputy Secretary, Maryland Department of Transportation  
Mr. James J. White, Executive Director, Maryland Port Administration

**Maryland Department of Transportation  
Maryland Port Administration  
Draft Audit Report Responses  
Report Period December 27, 2004 to January 7, 2008**

## **Contract Monitoring**

### **Finding 1**

**The Maryland Port Administration (MPA) did not adequately monitor certain blanket contracts for architectural and engineering services, resulting in overspending and a lack of assurance that contract payments were proper.**

### **Response:**

The Administration concurs with the auditor's recommendations.

- a. The Administration has implemented a tracking system (excel spreadsheet) to monitor the approval of tasks, the approved authorized amount for each task and spending against the approved task amount to ensure payments do not exceed authorized amounts. This action has been implemented as of October 31, 2008.
- b. The Administration is in the process of reviewing all eight (8) tasks and the associated additional cost mentioned in the auditor's report to determine the propriety of the payments made. The Administration will document this review and will take the appropriate corrective action, if needed. This review will be on file for audit purposes. It is anticipated that the completion of this review will be by April 1, 2009.
- c. The Administration implemented new written procedures to establish approval of task orders before work is performed. This action has been implemented as of October 31, 2008.
- d. & e. The Administration implemented new written procedures for processing invoices. These procedures will include the task project manager verifying the propriety of the invoices and associated documentation and signature of approval or disapproval of the amount invoiced. This verification will be retained for audit review. This action has been implemented as of October 31, 2008.

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**Finding 2**

**MPA could not document that it adequately monitored a key performance provision of its stevedoring contract.**

**Response:**

The Administration concurs with the auditor's recommendation.

- a. & b. The Administration will continue to monitor truck turn-around times. The trucker turn-around times are generated by an in-house report based on the data collected from the electronic date and time stamp that is recorded in the Navis Express terminal operating system. This data is reviewed on a weekly basis and reported as part of the Seagirt Weekly Activity Report. This report will be maintained on file for audit purposes. Also, the Administration has organized a Q-CHAT (Quality Cargo Handling Action Team) Committee that meets monthly to discuss all issues involving container handling activity at the MPA Facilities. These monthly meeting notes will be recorded and filed for audit purposes.

To ensure adequate monitoring, if turn-around times are above the provisions of the contract at the end of a month then the Administration will request a meeting with the Contractor to determine the cause of deficiency. If the deficiency is agreed to be third party involvement it will be recorded and documented in the meeting minutes for audit review. If the deficiency is that of the contractor then the necessary corrective action will be taken. The corrective action will also be documented in the meeting minutes for audit review.

- c. The MPA acted in accordance with the language in the current Procurement Contract, Attachment A, Section 2.2B, Scope of Services which states. "MPA *shall* have the right to reduce landside charges as a result of the contractor's inability to meet these time limits". However, the MPA will take the appropriate action in future Procurement Contracts that will clarify and detail specific cost reductions in contractor's charges in the case of contract performance provisions not being met.

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**Purchases and Disbursements**

**Finding 3**

**Proper internal controls were not established over the processing of purchasing and disbursement transactions.**

**Response:**

The Administration concurs with the auditors' recommendation.

- a. The Administration has since taken appropriate corrective actions in the FMIS security profiles of the 13 employees cited in the auditors' analysis. These specific corrective actions were completed in August 2008.
- b. & c. The Administration will implement procedures to periodically monitor the FMIS security of its employees and will document its reviews of the security system. These procedures will be implemented as of April 1, 2009.

**Finding 4**

**MPA did not always use the appropriate payment method for disbursement transactions.**

**Response:**

The Administration concurs with the auditors' recommendation. The Administration will conduct an analysis of all direct voucher payment transactions and develop appropriate procedures to ensure compliance with the Department of Budget & Management's Internal Control and Security Policy and Procedures for Direct Voucher Usage. The Administration will complete its analysis of direct voucher payment transactions by June 30, 2009 and implement appropriate procedures based on the results of the analysis. This analysis will be maintained on file for audit review.

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## Cash Receipts

### **Finding 5**

**MPA did not establish adequate controls over collections, which totaled \$87.9 million during fiscal year 2008.**

#### **Response:**

The Administration concurs with the auditor's recommendation.

- a. & b. An Administration employee, separate from the collections and deposit function, will be assigned to verify in a timely manner that recorded collections have been deposited and that such verifications have been properly documented. These procedures will be implemented by April 1, 2009.
- c. The Administration has removed access from employees who perform the function of recording collections and bank adjustments to the accounting records. This change was implemented in August 2008.

### **Finding 6 (Policy Issue)**

**MPA should require customers to remit large payments electronically to enhance controls and to expedite deposit of the funds.**

#### **Response:**

The Administration concurs with the auditor's recommendation. The Administration will draft a policy to require that customer payments of \$10,000 or more be submitted to our account electronically. In addition, the Administration will draft a letter of notice to all of its regular customers regarding this change in policy to become effective as of April 1, 2009. Although the Administration will not refuse to accept payments by check of \$10,000 or more after this date, the Administration will perform follow-up notifications to customers of the new policy upon receipt of any checks for \$10,000 or more, after the April 1st. deadline. The Administration also recognizes that some customers may not wish to comply with the new policy, due to technical or policy restrictions within their own entities. In those instances, the Administration will not refuse to accept customer payments, in the form of a check, in violation of this policy. The Administration believes that to do so would disrupt its good relations with its customers as well as cause needless delays in the deposit of customers' receipts into the State Treasury.

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## **Information Systems Security and Controls**

### **Finding 7**

**Authentication and monitoring controls over MPA's Seagirt Marine Terminal operations application and database were adequate.**

#### **Response:**

The Administration concurs with the auditor's recommendation. Password security was implemented on the impacted servers to review the production impact. The Administration determined the password changes were inadequate to support the production system and could potentially cause disruption of services. The Administration is now planning to implement recommendations using scripting. The Administration anticipates the testing and implementation by July 1, 2009.

### **Finding 8**

**An insecure communications protocol was used to access Seagirt Marine Terminal sensitive information.**

#### **Response:**

The Administration concurs with the auditor's recommendation. The current version of web server does not support the (Https/ssl) and will need an upgrade. The Administration is in the process of testing the newer versions of web server for Https/ssl. The new configuration will be implemented after successful testing. The Administration anticipates moving the new configuration change into production by July 1, 2009.

## **Personal Services Contract**

### **Finding 9**

**Key documents describing the scope of services to be rendered and authorizing payments for a personal services contract were frequently not prepared or approved, as required.**

#### **Response:**

The Administration concurs with the auditors' recommendation. The Administration now has a process in place that outlines assigned task to be completed. In addition, monthly time reports are now being approved by the Executive or Deputy Executive Director as required.

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