

Audit Report

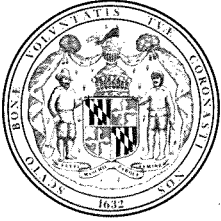
Maryland Public Broadcasting Commission

November 2012



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

November 28, 2012

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Executive Director

Thomas J. Barnickel III, CPA
Acting 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 Public Broadcasting Commission (MPBC) for the period beginning April 22, 2009 and ending November 30, 2011. MPBC is responsible for operating and maintaining a system of regional and local facilities to provide educational and cultural television and radio programs throughout the State. MPBC is also responsible for the preparation, content, and presentation of such programs to the public.

Our audit disclosed several deficiencies associated with two contracts. MPBC did not comply with applicable State regulations related to a multi-year procurement for direct marketing and fundraising services; specifically, MPBC procured the \$2.55 million contract on a sole-source basis even though other qualified vendors appeared to exist. MPBC did not monitor payments for the other contract for call center services, allowing payments to exceed the authorized contract amount by \$72,000 without obtaining prior approval of the Board of Public Works, as required. For both contracts, MPBC did not adequately monitor contract terms, and did not ensure the propriety of invoices prior to payment.

Our audit also disclosed internal control and record keeping deficiencies with respect to cash receipts.

MPBC'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 MPBC.

Respectfully submitted,

Thomas J. Barnickel III, CPA
Acting Legislative Auditor

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

Background Information

Agency Responsibilities

The Maryland Public Broadcasting Commission (MPBC) is responsible for operating and maintaining a system of regional and local facilities to provide educational and cultural television and radio programs throughout the State. MPBC is also responsible for the preparation, content, and presentation of programs for the public. MPBC operates six television stations located in Annapolis, Baltimore, Frederick, Hagerstown, Oakland, and Salisbury. MPBC is governed by an 11-member commission whose members are appointed by the Governor.

According to the State's records, during fiscal years 2011 and 2012, MPBC's operating expenditures totaled approximately \$23.9 million and \$24.3 million, respectively. The 2012 expenditures consisted of \$15.4 million in special funds (primarily from viewer and corporate contributions), \$7.8 million in State general funds, and \$1.1 million in federal funds.

Financial Statement Audits

In compliance with the audit requirements established by the Corporation for Public Broadcasting (a federally funded, nonprofit organization that provides funds to MPBC and other public broadcasting entities), MPBC engaged an independent certified public accounting firm to perform audits of the combined financial statements of MPBC and the Maryland Public Broadcasting Foundation, Incorporated, an affiliated nonprofit foundation. In the related audit reports for the fiscal years ended June 30, 2009, 2010, and 2011, the firm stated that the combined financial statements presented fairly, in all material respects, the financial position of MPBC and the Foundation, and the respective changes in net assets and cash flows for the years then ended in conformity with the Financial Reporting Guidelines prescribed by the Corporation for Public Broadcasting.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the six findings contained in our preceding audit report dated March 8, 2010. We determined that MPBC satisfactorily resolved five of those findings. The remaining finding is repeated in this report.

Findings and Recommendations

Contract Procurement and Monitoring

Background

Effective July 2011, the Maryland Public Broadcasting Commission (MPBC) entered into a three-year service contract with the incumbent vendor for direct marketing and fundraising services for an amount not to exceed \$2.55 million. This vendor is responsible for supporting membership fundraising, helping MPBC increase its net revenues and number of contributors, and assisting MPBC in developing improved relationships with donors.

MPBC also held a contract with another vendor to provide inbound call center services and resources for Maryland Public Television (MPT) pledge drives. Payments on the four-year inbound call center services contract (two-year contract and two-year modification), which originally ended on August 31, 2011 (but was subsequently extended through December 2012), were not to exceed \$390,069.

Finding 1

MPBC's award of a contract to the incumbent vendor for direct marketing and fundraising services, on a sole-source basis, did not appear to be adequately justified.

Analysis

MPBC awarded the three-year contract to the incumbent vendor for direct marketing and fundraising services. The procurement, which was approved by the Board of Public Works, was awarded on a sole-source basis even though similar services appeared to be available from other vendors.

MPBC's written sole-source justification indicated that this vendor operated a public media co-op, which allowed 15 stations to share information and fundraising tools (including the 6 stations of MPT for which MPBC holds the licenses). The justification further indicated that access to the co-op's resources, campaigns, and conferences was only available through this vendor and that the contractor would be able to negotiate group pricing for the co-op members. Finally, the justification stated that competitive sealed bidding was not applicable because specifications for this project could not be prepared to award the contract solely on price.

According to State Procurement Regulations, sole-source procurement is permissible when only one source exists which meets the requirements. The Regulations also state that procurement by competitive sealed proposals is required, rather than competitive sealed bids, when specifications cannot be prepared that would permit an award based solely on price.

However, when direct marketing and fundraising services were previously procured and awarded to this same vendor in 2007, using the competitive sealed proposals method, MPBC received bids from five other vendors. Furthermore, we identified another vendor that currently manages a public media co-op with more than 30 public broadcasting clients. Accordingly, it appears that other vendors could have provided the direct marketing and fundraising services and thus a competitive sealed proposal process should have been used to procure the contract.

In addition, MPBC could not provide an analysis or any documentation to support assertions of the cost savings or increased revenues to be provided from being a member of the public media co-op facilitated by the vendor, even though MPBC cited this as a primary reason for the sole-source award.

Recommendation 1

We recommend that MPBC comply with the aforementioned requirements of the State Procurement Regulations. Specifically, we recommend that MPBC use the sole-source procurement method only in instances in which the required goods and services are available from only one source.

Finding 2

MPBC did not adequately monitor the contract terms for call center services and direct marketing and fundraising services and did not ensure payments were consistent with the contract terms, including the specified rates.

Analysis

MPBC did not adequately monitor the contract terms and the related payments for call center services and direct marketing and fundraising services. As of November 30, 2011, payments to date on both contracts totaled \$643,000. Under the terms of these contracts, payments to the vendors were to be based on the actual services provided, and supporting documentation (such as approved task orders, receipts for mailings, and call center reports) was to be submitted with the invoices. Our review of these contracts disclosed the following conditions:

- For both contracts, MPBC did not ensure the propriety of invoices prior to payment, nor did it perform periodic audits of contractor records, as permitted by the related contracts. Our test of 43 invoices from both contractors during the audit period, totaling approximately \$435,000, disclosed that supporting documentation was not obtained for any of the invoices and we found instances of rates charged that were inconsistent with contracted rates and terms. For 15 invoices, the rates charged exceeded contract rates, resulting in overpayments of \$14,475, and for 8 invoices the rates charged were lower, resulting in underpayments of \$24,663. Furthermore, one invoice tested for call center services was a duplicate payment of \$15,446; the contractor detected the error and reduced subsequent billings for the error. Similar conditions regarding duplicate payments and lack of supporting documentation for amounts billed were commented upon in our preceding audit report.

Our test also disclosed that MPBC made seven payments totaling approximately \$105,000 to the call center contractor as prepayments for call center minutes, which was specifically prohibited by the contract; MPBC subsequently received credit for these prepayments.

- With respect to the direct marketing and fundraising services contract, MPBC made payments directly to a subcontractor, in violation of the contract. Specifically, we noted two prepayments for postage as provided for in the contract totaling \$100,000 that were made directly to the subcontractor. Our review of nine subsequent invoices related to the two prepayments disclosed rates charged that were inconsistent with the contract rates, as noted in the preceding bullet.

MPBC also did not ensure this contractor had executed contracts with its subcontractors as required by the MPBC contract. We were advised by the contractor that it had no written contracts with its five primary subcontractors servicing the MPBC contract. A written contract would stipulate the scope of work to be performed, rates of pay, and other terms and conditions, including responsibilities for all parties.

- MPBC did not obtain performance reports so it could adequately monitor the call center contractor. At our request, MPBC obtained these reports from the contractor which, based on our review, indicated that MPBC paid approximately \$89,000 for services performed that were not specified in the contract. Specifically, MPBC paid approximately \$70,000 for 71 mini-pledge drive days (approximately 80,000 minutes) in excess of the 30 mini-pledge drive days (36,000 minutes) specified in the contract. MPBC also paid

approximately \$19,000 for 22,000 non-pledge drive minutes that were not included in the contract. Finding 3 includes a comment that MPBC payments to this vendor exceeded the contract's value.

Recommendation 2

We recommend that MPBC

- a. ensure that contractor payments are consistent with contract terms, and obtain and review documentation (including call center reports) and rates charged to support all invoices, and pursue recovery of charges not supported or billed at incorrect rates (repeat);**
- b. implement procedures to prevent duplicate contractor payments (repeat);**
- c. ensure that contractors execute contracts with subcontractors; and**
- d. monitor contractor services performed in relation to the contract terms.**

Finding 3

A formal process was not in place to monitor payments related to the call center contract, resulting in payments exceeding the approved contract amount by \$72,000 without required Board of Public Works (BPW) approval.

Analysis

MPBC did not monitor payments for the multi-year call center contract, resulting in payments exceeding the approved contract amount by approximately \$72,000, without obtaining prior BPW approval.

Payments on the four-year inbound call center services contract (two-year contract and two-year modification), which originally ended on August 31, 2011, were not to exceed \$390,069. However, MPBC's payments totaled \$461,982 through September 9, 2011. MPBC was unaware that the contract amount had been exceeded until we brought this to its attention, and had not prepared a contract modification or obtained BPW approval as required by State Procurement Regulations for contract modifications exceeding \$50,000. MPBC subsequently obtained retroactive BPW approval on April 4, 2012 to extend the contract period through December 2012 and to increase the contract amount to include these payments.

This condition was caused, at least in part, by MPBC's failure to maintain proper cost controls to ensure that payments to contractors did not exceed the total contract amounts. Specifically, MPBC did not always establish purchase orders for contracts on the State's Financial Management Information System (FMIS) or establish any other mechanism to track payments in relation to the total contract amount. Through the use of purchase orders, FMIS could alert or prevent the

over-expenditure of a contract amount. According to the State's accounting records, during the audit period, MPBC made contractual service payments of approximately \$13.5 million, of which approximately \$11.1 million were made without recording a purchase order in FMIS.

Recommendation 3

We recommend that MPBC

- a. establish a process to ensure contract expenditures do not exceed authorized awards (such as through the establishment of purchase orders in FMIS); and**
- b. obtain timely BPW approval on future contract modifications, as required.**

Cash Receipts

Finding 4

MPBC had not established adequate controls over certain mail receipts.

Analysis

Procedures and controls over certain mail receipts (for example, MPT Foundation donations, broadcasting tower rental fees, and bequests) were not adequate. These receipts totaled approximately \$4.4 million during fiscal year 2011, including approximately \$2 million related to accounts receivable. Specifically, the documents on which collections were initially recorded were not forwarded directly to the employee responsible for verifying that the recorded receipts were deposited. Instead, the documents, along with the related cash receipts, were first given to another employee for processing and deposit. In addition, this same employee also maintained the accounts receivable records. Consequently, there was a lack of assurance that these collections were deposited and properly recorded in the accounts receivable records, as applicable.

The Comptroller of Maryland's *Accounting Procedures Manual* requires the segregation of the cash receipts handling duties from the cash receipts and accounts receivable record keeping, billing, and reconciliation functions.

Recommendation 4

We recommend that MPBC

- a. ensure that the documentation used to initially record collections is given directly to an employee independent of the collection and deposit functions for verification to deposit, and**
- b. segregate the cash collection and accounts receivable functions.**

We advised MPBC on accomplishing the necessary segregation of duties using existing personnel.

Audit Scope, Objectives, and Methodology

We have audited the Maryland Public Broadcasting Commission (MPBC) for the period beginning April 22, 2009 and ending November 30, 2011. 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 MPBC'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. The areas addressed by the audit included procurements and disbursements, cash receipts, payroll, and equipment. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of MPBC'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 an evaluation of internal controls for federal financial assistance programs and an assessment of MPBC'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 MPBC.

MPBC'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 conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect MPBC's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. This report also includes findings of significant instances of noncompliance with applicable laws, rules, and regulations. Other less significant findings were communicated to MPBC that did not warrant inclusion in this report.

MPBC'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 MPBC regarding the results of our review of its response.

APPENDIX

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LARRY D. UNGER
PRESIDENT & CEO

November 14, 2012

Thomas J. Barnickell III, CPA
Acting Legislative Auditor
Department of Legislative Services
Office of Legislative Audits
Maryland General Assembly
301 West Preston Street, Room 1202
Baltimore, MD 21201

Dear Mr. Barnickell:

Enclosed please find our response to the draft audit report of the Maryland Public Broadcasting Commission for the period beginning April 22, 2009 and ending November 30, 2011. If you have any questions or if anything further is needed, please contact me at any time.

Very truly yours,

A handwritten signature in black ink, appearing to read "Larry D. Unger", written in a cursive style.

Larry D. Unger
President and CEO

cc: Edward H. Kaplan, Chairman
Maryland Public Broadcasting Commission

Contract Procurement and Monitoring

Finding 1

MPBC's award of a contract to the incumbent vendor for direct marketing and fundraising services, on a sole-source basis, did not appear to be adequately justified.

Recommendation 1

We recommend that MPBC comply with the aforementioned requirements of the State Procurement Regulations. Specifically, we recommend that MPBC use the sole-source procurement method only in instances in which the required goods and services are available from only one source.

Response: MPBC concurs with the recommendation and will comply with it. MPBC notes that it acted in good faith and reasonably believed that the contract at issue was legitimately a sole source. The contract was carefully scrutinized by the Department of Budget and Management as well as the Board of Public Works, both of which approved the sole source designation. MPBC further notes that the contract has created great value for the State, helping to generate millions of dollars in fund raising revenue.

Finding 2

MPBC did not adequately monitor the contract terms for call center services and direct marketing and fundraising services and did not ensure payments were consistent with the contract terms, including the specified rates.

Recommendation 2

We recommend that MPBC

- a. ensure that contractor payments are consistent with contract terms, and obtain and review documentation (including call center reports) and rates charged to support all invoices, and pursue recovery of charges not supported or billed at incorrect rates (repeat);**
- b. implement procedures to prevent duplicate contractor payments (repeat);**
- c. ensure that contractors execute contracts with subcontractors; and**
- d. monitor contractor services performed in relation to the contract terms.**

Response: MPBC concurs with the recommendations and will comply with them.

Finding 3

A formal process was not in place to monitor payments related to the call center contract, resulting in payments exceeding the approved contract amount by \$72,000 without required Board of Public Works (BPW) approval.

Recommendation 3

We recommend that MPBC

- a. establish a process to ensure contract expenditures do not exceed authorized awards (such as through the establishment of purchase orders in FMIS); and**
- b. obtain timely BPW approval on future contract modifications, as required.**

Response: MPBC concurs with the recommendations and will comply with them. MPBC has obtained retroactive approval from the Board of Public Works for those expenditures that exceeded the authorized amount. This situation occurred at a time when the contract manager and MPBC's sole procurement officer left MPBC and those positions were vacant. MPBC's new procurement officer has taken steps to insure that this situation does not reoccur, including fully utilizing FMIS as recommended.

Cash Receipts**Finding 4**

MPBC had not established adequate controls over certain mail receipts.

Recommendation 4

We recommend that MPBC

- a. ensure that the documentation used to initially record collections is given directly to an employee independent of the collection and deposit functions for verification to deposit, and**
 - b. segregate the cash collection and accounts receivable functions.**
- We advised MPBC on accomplishing the necessary segregation of duties using existing personnel.**

Response: MPBC concurs with the recommendations and will comply with them.

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