

Audit Report

Maryland Food Center Authority

August 2021



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

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

August 18, 2021

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Maryland Food Center Authority (MFCA) for the period beginning January 30, 2017 and ending February 28, 2021. MFCA is primarily responsible for establishing, maintaining, operating, and promoting consolidated food markets within the State. MFCA owns and operates regional food industry facilities, including the Maryland Market Center and the Maryland Wholesale Produce Market located in Jessup, Maryland.

Our audit disclosed that MFCA issued 38 contract modifications for two capital construction contracts after the respective contract expiration dates, including one modification valued at \$1.9 million that more than tripled the scope and cost of the original expired contract.

In addition, we found that MFCA's procurement policies and procedures were not approved by MFCA's Board of Directors as required by State law. Finally, MFCA did not have a process to verify the propriety of changes to employee leave balances.

Our audit also included a review to determine the status of the finding contained in our preceding audit report. We determined that MFCA satisfactorily addressed this finding.

MFCA's response to this audit is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues. We have edited MFCA's response to remove certain vendor names or products, as allowed by our policy.

We wish to acknowledge the cooperation extended to us during the audit by MFCA and its willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive style with a large, prominent initial 'G'.

Gregory A. Hook, 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 regional food service facilities, including the Maryland Market Center¹ and the Maryland Wholesale Produce Market located in Jessup, Maryland. MFCA's Board of Directors comprises 12 members including the Comptroller of Maryland; the Secretary of the Department of Agriculture; the Secretary of the Department of General Services; the Director of Maryland Cooperative Extension at University of Maryland, College Park; and private citizens appointed by the Governor.

MFCA receives no State general funds, and its operations are primarily funded through entrance and registration fees, service fees, and rental income that are generated from the operation of the aforementioned food service facilities. According to its audited financial statements, MFCA's operating revenues and expenses each totaled \$4.7 million for the fiscal year ended June 30, 2020.

Financial Statement Audits

MFCA engaged an independent accounting firm to perform audits of its financial statements for the fiscal years ended June 30, 2017, 2018, 2019, and 2020. In the related audit reports, the firm stated that MFCA's financial statements presented fairly, in all material respects, the financial position of MFCA, and the respective changes in financial position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Truck Wash Facility

In 2016, MFCA entered into a contract to construct a truck washing facility based on its anticipation of the passage of a proposed federal regulation that included a requirement that the interiors of food transportation vehicles be washed after each transport. The contract ultimately cost \$1 million, and MFCA initially estimated, based on the passage of the proposed federal regulations, that the truck wash would generate approximately \$118,000 in annual revenue. However, in April 2016, two months prior to MFCA authorizing its selected contractor to proceed

¹ The Maryland Market Center includes the former Maryland Wholesale Seafood Market.

with construction, the final federal regulations were published, which omitted the truck wash requirement. Although MFCA acknowledged to us that the omission of this requirement significantly reduced the need for the truck wash facility, it did not formally reassess the need for the facility, nor did it invoke the termination for convenience clause, which allowed MFCA to terminate the work whenever MFCA determined it was in MFCA's best interest to do so. Without the regulations requiring vehicle washing, as of January 2021, actual revenues since the truck wash opened in July 2018 have totaled less than \$5,000.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the finding contained in our preceding audit report dated October 3, 2017. We determined that MFCA satisfactorily addressed this finding.

Findings and Recommendations

Capital Construction Projects

Background

According to MFCA records, capital expenditures for fiscal years 2016 through 2020 totaled \$10.2 million. We reviewed two capital construction contracts procured using a competitive procurement process during this period. One contract, initially valued at \$541,000, was to renovate four vendor units at the Maryland Market Center and the other contract, initially valued at \$582,250, was to construct a new truck washing facility. As of February 2021, MFCA payments on these contracts totaled \$3.0 million and \$1.0 million, respectively.

Finding 1

MFCA issued 38 contract modifications after the two contracts had expired, including a \$1.9 million modification that increased the scope and more than tripled the cost of the original Maryland Market Center renovation contract.

Analysis

MFCA issued 38 contract modifications after the contracts had expired, including a \$1.9 million modification that significantly increased the scope and more than tripled the cost of the renovation contract. MFCA modified the Maryland Market Center renovation contract 42 times and the truck wash facility contract 12 times, increasing the total value of these contracts to \$3.0 million and \$1.0 million, respectively.

Our review disclosed that MFCA processed 38 of these contract modifications totaling \$2.7 million between 1 month and 1.5 years after the two original contracts had expired (further, neither contract had been formally extended by any of the 9 modifications entered into prior to the expiration of the original contracts). One of these modifications was processed 10 months after the renovation contract expired and significantly increased the scope and cost of the contract. Specifically, the initial renovation contract was procured in March 2018 and expired in July 2018. The initial contract included the renovation of four vendor units at the Maryland Market Center. In May 2019, MFCA modified this contract to add an additional 10 vendor units at a cost of \$1.9 million.

Modifying a contract after its expiration, including increasing the scope and cost, circumvents the competitive procurement process and results in a lack of assurance that the services were obtained at the most advantageous pricing. MFCA's procurement policy did not address this specific situation (continuing to use an expired contract that was no longer in force), but the policy generally

required contracts in excess of \$100,000 to be awarded through the use of a competitive procurement process. While MFCA is exempt from State procurement regulations, BPW officials advised us that modifying an expired contract was not permissible under State procurement regulations and that contract modifications should not be used to significantly alter the scope of work.

Recommendation 1

We recommend that MFCA

- a. discontinue its practice of using expired contracts to obtain additional services, and**
- b. competitively procure new contracts when additional work significantly increases the scope and cost of a project.**

Finding 2

MFCA's current procurement policies and procedures were not approved by its Board of Directors as required by State law, and did not require Board approval of significant procurements to enhance oversight and control.

Analysis

MFCA's current procurement policies and procedures were not approved by MFCA's Board of Directors as required by State law. Specifically, MFCA could not provide documentation that its policies and procedures had been approved by its Board, including the current policies and procedures, which had been revised in January 2018. According to State law, each agency with an exemption from State procurement regulations, such as MFCA, is required to have written policies and procedures for its exempt procurements and to submit these policies and procedures to their governing board, commission, council, or authority for review and approval.

In addition, MFCA procurement policies and procedures did not require the Board to review and approve significant procurements. Such a requirement, if implemented, could enhance the Board oversight and control of significant procurements.

Recommendation 2

We recommend that MFCA

- a. submit its procurement policy to the Board of Directors for approval, as required by State law; and**
- b. formally consult with its Board of Directors on revising its procurement policy to require significant procurements (for example, procurements over \$100,000) be presented to, reviewed, and approved by the Board.**

Payroll

Finding 3

MFCA did not have a process to verify that changes to employee leave balances were proper.

Analysis

MFCA did not have a process to verify that changes to employee leave balances were proper. One MFCA employee was responsible, based on approved timesheets, for making entries to employee leave balances, which were not subject to independent approval. As a result, unauthorized or erroneous leave could be recorded without detection.

According to MFCA records, during calendar year 2020, MFCA processed entries that changed employee leave balances by 13,809 hours (consisting of an increase of 8,603 hours and decrease of 5,206 hours). Our test of leave entries did not disclose any improper transactions.

Recommendation 3

We recommend that MFCA ensure leave balance changes are reviewed for propriety by independent supervisory personnel.

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Maryland Food Center Authority (MFCA) for the period beginning January 30, 2017 and ending February 28, 2021. 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 MFCA's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included accounts receivable, cash receipts, capital construction projects, payroll, procurement, and disbursements. We also determined the status of the finding contained in our preceding audit report.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of January 30, 2017 to February 28, 2021, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of MFCA's operations. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk, the timing and dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do not normally use sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data) and the State's Central Payroll Bureau (payroll data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these sources were sufficiently reliable for the purposes the data were used during this audit. We also obtained extracted data from MFCA's financial systems for the purpose of testing certain areas, such as accounts receivable and cash receipts. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

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. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to MFCA, were considered by us during the course of this audit.

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 the 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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August 16, 2021

Mr. Gregory A. Hook, 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. Hook:

Please find enclosed the Maryland Food Center Authority's response to the draft audit report for the period beginning January 30, 2017 and ending February 28, 2021.

Thank you for the work of your team and the recommendations provided.

Sincerely,

[Doctor DJ Darnall \(Aug 16, 2021 12:54 EDT\)](#)

Dr. Donald J. Darnall
Executive Director

cc: Steven Fanaroff, Chairman

Maryland Food Center Authority

Agency Response Form

Capital Construction Projects

Finding 1
MFCA issued 38 contract modifications after the two contracts had expired, including a \$1.9 million modification that increased the scope and more than tripled the cost of the original Maryland Market Center renovation contract.

We recommend that MFCA

- a. **discontinue its practice of using expired contracts to obtain additional services, and**
- b. **competitively procure new contracts when additional work significantly increases the scope and cost of a project.**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 1a	Agree	Estimated Completion Date:	May 2021
Please provide details of corrective action or explain disagreement.	<p>During the course of the contract, the MFCA executed Change Orders which extended the end date of the contract however, an overall Addendum was not executed to extend the date of the contract.</p> <p>Since May 2021, the MFCA added an additional procedure to all procurements and this procedure is now included in the MFCA Procurement Checklist for all MFCA contracts. Going forward, all contract end dates will be entered into a shared MFCA email calendar and a reminder set with enough time to execute any needed contract extensions</p> <p>Going forward, the MFCA shall issue an addendum to extend expiring contracts.</p>		
Recommendation 1b	Agree	Estimated Completion Date:	June 2021
Please provide details of corrective action or explain disagreement.	<p>The MFCA shall explicitly indicate in an Invitation for Bid if the contract may be executed in phases, or is based on a per unit cost structure, and the total potential volume scope of a contract shall be noted.</p> <p>In addition, the MFCA shall explicitly state in any phased, or per unit contract, the Prime Contractor must demonstrate quality workmanship,</p>		

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	<p>complete the initial contracted work in the least disruptive manner with regard to existing Tenants, and perform its work in a timely manner in order for the phased, or per unit contract, to continue past the completion of the initial contracted work.</p> <p>Going forward, the MFCA shall procure new contracts when additional work significantly increases the scope and cost of a project.</p>
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Maryland Food Center Authority

Agency Response Form

Finding 2
MFCA’s current procurement policies and procedures were not approved by its Board of Directors as required by State law, and did not require Board approval of significant procurements to enhance oversight and control.

We recommend that MFCA

- a. submit its procurement policy to the Board of Directors for approval, as required by State law; and**
- b. formally consult with its Board of Directors on revising its procurement policy to require significant procurements (for example, procurements over \$100,000) be presented to, reviewed, and approved by the Board.**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 2a	Agree	Estimated Completion Date:	June 2021
Please provide details of corrective action or explain disagreement.	On June 11, 2021, the MFCA submitted its procurement policy to the Board of Directors, and the policy was approved.		
Recommendation 2b	Agree	Estimated Completion Date:	June 2021
Please provide details of corrective action or explain disagreement.	Going forward, any contract greater than \$500,000 shall be presented, reviewed, and approved by the Board of Directors		

Maryland Food Center Authority

Agency Response Form

Payroll

Finding 3
MFCA did not have a process to verify that changes to employee leave balances were proper.

We recommend that MFCA ensure leave balance changes are reviewed for propriety by independent supervisory personnel.

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 3	Agree	Estimated Completion Date:	April 2021
Please provide details of corrective action or explain disagreement.	To ensure adjustments to employee leave balances are proper for each pay period, beginning in April 2021, an independent supervisory employee reviews all MFCA leave balances. This approval is documented on the Financial Close Checklist.		

AUDIT TEAM

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