

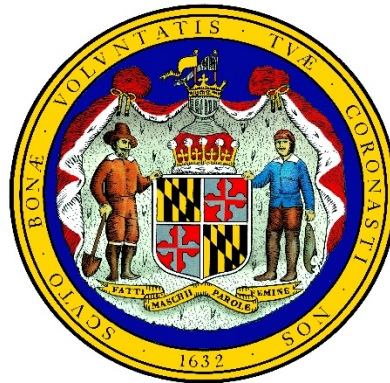
Audit Report

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**Maryland Public Broadcasting Commission**

October 2024

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**OFFICE OF LEGISLATIVE AUDITS**  
DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND GENERAL ASSEMBLY

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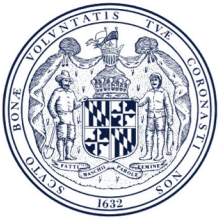
Office of Legislative Audits  
The Warehouse at Camden Yards  
351 West Camden Street, Suite 400  
Baltimore, Maryland 21201  
Phone: 410-946-5900  
Maryland Relay: 711  
TTY: 410-946-5401 · 301-970-5401  
E-mail: [webmaster@ola.state.md.us](mailto:webmaster@ola.state.md.us)  
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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber  
Executive Director

Brian S. Tanen, CPA, CFE  
Legislative Auditor

October 24, 2024

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee  
Delegate Jared Solomon, 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 Public Broadcasting Commission (MPBC) for the period beginning June 18, 2019 and ending June 30, 2023. 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.

During our audit, MPBC would not provide documentation of corrective action taken to address concerns with its affiliated foundation in response to our preceding audit report and a Joint Audit and Evaluation Committee (JAEC) letter of concern. As a result, we could not determine whether its policies and procedures were modified to address the recommendations in our preceding report and to incorporate best practices that it committed to in its written response to the JAEC. Additionally, MPBC could not justify the diversion of approximately \$1.3 million in State revenue to its affiliated foundation during fiscal years 2020 through 2023. According to MPBC's audited financial statements, the affiliated foundation received revenue from corporate underwriters and sponsors (including State agencies) totaling \$15.7 million during fiscal years 2020 through 2022.

Our audit also disclosed that MPBC continued to use the services of a vendor for several years after the related contract had expired and did not adequately ensure amounts invoiced by that vendor were proper. Additionally, MPBC did not always comply with State procurement regulations for its non-exempt procurements and intergovernmental cooperative purchasing agreements including documenting bid openings and publishing contract awards on *eMaryland Marketplace Advantage*.

Furthermore, supervisory reviews of corporate purchasing card activity logs were not always documented and did not use available Level-3 data to help ensure the propriety of the purchases, as required. Also, MPBC did not segregate the cash receipts and accounts receivable record duties, as required.

Finally, our audit included a review to determine the status of four findings contained in our preceding report. We determined that MPBC satisfactorily addressed two of these findings. The remaining two findings are repeated in this report.

MPBC's response to this audit is included as an appendix to this report. In accordance with State law, we have reviewed the response and, while MPBC generally agrees with the recommendations in this report, we identified certain instances in which statements in the response conflict with or disagree with the report findings related to activities of its affiliated foundation. In particular, MPBC disagrees with a recommendation repeated from our prior report and a subsequent letter of concern from the JAEC to monitor its independent affiliated foundation.

In accordance with generally accepted government auditing standards, we have included "auditor comments" within MPBC's response to explain our position. We will advise the JAEC of any outstanding issues that we cannot resolve with MPBC. Finally, there are other aspects of MPBC's response which will require further clarification, but we do not anticipate that these will require the JAEC's attention to resolve.

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

Respectfully submitted,

*Brian S. Tanen*

Brian S. Tanen, CPA, CFE  
Legislative Auditor

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## **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 year 2023, MPBC's operating expenditures totaled approximately \$37.6 million (See Figure 1 on the following page). These expenditures consisted of approximately \$21 million in special funds (primarily from viewer and corporate contributions), \$11 million in State general funds, and \$5.2 million in reimbursable funds.

According to the Department of Budget and Management's fiscal year 2024 Capital Budget *White Book*, MPBC had authorized capital improvement projects with budgeted funds totaling approximately \$12.7 million during the period from July 2018 to June 2020. The projects were for replacing digital transmission and broadcasting equipment, and for the renovation and expansion of its broadcasting studio. According to the State records, capital expenditures totaled approximately \$19.8 million during fiscal years 2019 to 2023. The procurements related to this activity were the responsibility of the Department of General Services and MPBC was responsible for making the related payments. Accordingly, our review of this activity was limited to ensuring the propriety of the payments.

**Figure 1**  
**MPBC Positions, Expenditures, and Funding Sources**

<b>Full-Time Equivalent Positions as of June 30, 2023</b>		
	<b>Positions</b>	<b>Percent</b>
Filled	139	95.9%
Vacant	6	4.1%
<b>Total</b>	<b>145</b>	
<b>Fiscal Year 2023 Expenditures</b>		
	<b>Expenditures</b>	<b>Percent</b>
Salaries, Wages, and Fringe Benefits	\$17,805,368	47.4%
Technical and Special Fees	840,694	2.2%
Operating Expenses	18,941,954	50.4%
<b>Total</b>	<b>\$37,588,016</b>	
<b>Fiscal Year 2023 Funding Sources</b>		
	<b>Funding</b>	<b>Percent</b>
General Fund	\$11,033,444	29.4%
Special Fund	20,990,220	55.8%
Federal Fund	392,063	1.0%
Reimbursable Fund	5,172,289	13.8%
<b>Total</b>	<b>\$37,588,016</b>	

Source: State financial and personnel records

## **Organizational Change**

Effective July 1, 2020, the Maryland State Ad Agency (MSAA), a division of MPBC, was created to provide full-service advertising, marketing, communications, and media buying for State agencies and related organizations. Prior to July 1, 2020, these services were offered by MPBC in a limited capacity within its Content Division. According to its records, during fiscal years 2021 through 2023, MSAA provided these services to 12 State agencies through interagency agreements valued at approximately \$20 million with related expenditures totaling \$15.1 million.



## **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 as well as to other public broadcasting stations), MPBC engaged an independent accounting firm to perform audits of the combined financial statements of MPBC and the Maryland Public Television Foundation, Inc., an affiliated nonprofit foundation.

In the related audit reports for fiscal years ended June 30, 2020, 2021, 2022, and 2023, the firm stated that the combined financial statements presented fairly, in all material respects, the assets, liabilities, and net assets of MPBC and the Foundation as of the years then ended in accordance with 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 four findings contained in our preceding audit report dated June 25, 2020. As disclosed in Figure 2 on the following page, we determined that MPBC satisfactorily addressed two of these findings. The remaining two findings are repeated in this report.

**Figure 2**  
**Status of Preceding Findings**

<b>Preceding Finding</b>	<b>Finding Description</b>	<b>Implementation Status</b>
Finding 1	MPBC did not establish formal policies and procedures to address revenue generating activities of its affiliated foundation. MPBC also did not effectively monitor the affiliated foundation and could not document that it received and reviewed conflict of interest disclosures for foundation board members and officers.	<b>Repeated</b> (Current Finding 1)
Finding 2	MPBC policies and procedures were not sufficiently comprehensive and certain critical provisions were not approved by MPBC’s governing Commission. Our review disclosed that MPBC did not obtain approval for certain exempt procurements and did not publish certain non-exempt contract awards on <i>eMaryland Marketplace (eMM)</i> as required.	<b>Repeated</b> (Current Finding 4)
Finding 3	MPBC did not obtain and review the required independent control review for its fundraising services vendor and, as a result, certain security concerns over fundraising data were not identified by MPBC and addressed with the vendor timely.	Not repeated
Finding 4	MPBC had not performed, or did not adequately perform, monthly reconciliations of its donor collections to its donor database for the period from August 2018 to August 2019.	Not repeated

# Findings and Recommendations

## Affiliated Foundation

### Background

State law authorized the Maryland Public Broadcasting Commission (MPBC) to create an affiliated foundation, which raises funds for the benefit of MPBC, in exchange for public acknowledgment of donors and underwriters on MPBC's website and televised programming. According to MPBC's audited financial statements, the affiliated foundation received revenue from corporate underwriters and sponsors (including State agencies) totaling \$15.7 million during fiscal years 2020 through 2022 to specifically support MPBC's activity. As of June 30, 2022, only 50 percent had been transferred to MPBC with the remaining \$7.8 million maintained by the affiliated foundation for future MPBC and foundation expenditures.

MPBC and the affiliated foundation are financially interrelated organizations. During our preceding audit of MPBC, legal advice from counsel to the Maryland General Assembly received in September 2019 concluded that the affiliated foundation did not have to provide our Office with access to its records or operations. However, in accordance with MPBC's agreement with its affiliated foundation, MPBC is allowed to grant auditors or other external entities access to the foundation's records.

Based on the level of integration between the affiliated foundation and MPBC (MPBC employees maintained the records on behalf of the affiliated foundation as delegated and the affiliated foundation reimbursed MPBC for its employees' work), we requested MPBC grant us access or provide us certain foundation financial records. In a similar manner to our preceding audits, MPBC again denied us access to the requested records citing the affiliated foundation's status as an independent entity.

MPBC also denied us access to annual conflict of interest disclosures from its affiliated foundation board members and officers. These disclosures were required by MPBC's *Conflict of Interest Policy for Board of Directors and Officers of Affiliated Foundations*. Based on advice from counsel to the Maryland General Assembly provided in March 2020, to the extent MPBC has received notices of a potential conflict from foundation board members and officers under the aforementioned *Policy*, State law allows our Office to access those records (disclosures). The MPBC President advised us that none of the disclosures it received during our audit period included potential conflicts and therefore none of the related records were provided to our Office for review.

In response to the findings raised in our preceding report, the Maryland General Assembly's Joint Audit and Evaluation Committee (JAEC) issued a letter of concern to MPBC dated October 28, 2020 (see Exhibit 1). In the letter, the JAEC requested the status of MPBC's promised actions to resolve the findings in our preceding audit report, including the affiliated foundation issue. On December 3, 2020, MPBC responded to the JAEC letter indicating that the recommended actions had been taken and it would provide ongoing monitoring of the affiliated foundation activities.

**Finding 1 (Policy Issue)**

**MPBC would not provide documentation to support corrective action taken to address concerns with its affiliated foundation in response to our preceding audit report recommendations and a JAEC letter of concern.**

**Analysis**

MPBC would not provide documentation to support corrective action taken to address concerns with its affiliated foundation in response to our preceding audit and a JAEC letter of concern. Our preceding audit report noted several concerns with MPBC's relationship with its affiliated foundation including the following:

- MPBC did not establish formal policies and guidance to address the terms and conditions of revenue generating activities of its affiliated foundation.
- MPBC had no procedures to address how the affiliated foundation collections should be safeguarded, invested, and transferred to MPBC.
- MPBC had no formal guidelines governing the rates the affiliated foundation charges for underwriting and sponsorship of MPBC programming.
- MPBC did not effectively monitor the affiliated foundation to ensure it collected all amounts due from the sponsorship and underwriting agreements.
- MPBC did not document that it obtained and reviewed required annual conflict of interest disclosures from its affiliated foundation board members and officers.

In its June 17, 2020 response to the preceding report and its December 3, 2020 response to a subsequent letter of concern from the Maryland General Assembly's JAEC, MPBC indicated that it conducted a review of the affiliated foundation's policies, and was working with the affiliated foundation and its external auditors to develop best practices for its revenue generating activities. MPBC also committed to continually monitor the revenue generating activity to comply fully with the spirit and letter of our preceding audit recommendations and document its review of conflict of interest disclosures submitted by the foundation board members and officers.

However, during our current audit, MPBC would not provide us with any documentation of the aforementioned review and ongoing monitoring activities. As a result, we could not determine whether the policies and procedures were modified to address the recommendations in our preceding report and to incorporate best practices that it committed to in its written response to the JAEC.

### **Recommendation 1**

**We recommend that MPBC take corrective actions to address concerns and implement best practices for its affiliated foundation. Specifically, we recommend that MPBC document and retain for subsequent audit verification the following:**

- a. a review of the affiliated foundation collections process including procedures to safeguard, invest and timely transfer collections to MPBC (repeat);**
- b. a review of the affiliated foundation procedures to control the terms of underwriting and sponsorship agreements (repeat);**
- c. monitoring of revenue generating activities (repeat); and**
- d. receipt and review of the annual conflict of interest disclosures by its affiliated foundation board members and officers (repeat).**

### **Finding 2**

**MPBC could not justify the diversion of approximately \$1.3 million in State revenue to the affiliated foundation during fiscal years 2020 through 2023.**

### **Analysis**

MPBC could not justify the diversion of approximately \$1.3 million in State revenue to the affiliated foundation during fiscal years 2020 through 2023. Specifically, we noted the following conditions.

- MPBC directed State agencies to pay its affiliated foundation for production services provided by MPBC. According to State records, 15 State agencies paid the affiliated foundation approximately \$900,000 during fiscal years 2020 through 2023. We requested documentation from MPBC to justify why the payments were made to the affiliated foundation, but MPBC denied us access to the documentation citing the affiliated foundation's status as an independent entity. Therefore, we requested and obtained agreements from one State agency that paid the affiliated foundation approximately \$370,000 under 12 separate underwriting agreements to produce a television show. These payments represented the most significant payments by the 15 State agencies.

Our review of the agreements disclosed that MPBC provided the production services for specific television programming, and the affiliated foundation simply was the recipient of the funds paid by the State agency for those services. Consequently, MPBC bypassed State budgetary oversight by directing State agencies to pay the affiliated foundation instead of establishing a special or reimbursable fund to budget and account for this revenue.

- MPBC could not document the basis for approximately \$400,000 it paid to its affiliated foundation during fiscal years 2020 through 2023. MPBC management advised us that these payments were for advertisements aired on MPBC's platform (such as, television and radio) and for media campaigns produced by MPBC's Maryland State Ad Agency (MSAA). MPBC believed it was necessary for the affiliated foundation to be involved since it pays commissions to foundation employees for negotiating the individual advertisement placements on various platforms, including MPBC, even though these advertising services were provided by MPBC. However, MPBC could not provide documentation to support the amounts paid.

MPBC's practice of diverting State funds to the affiliated foundation contradicts the primary purpose of the *General Foundation Guidelines* of the affiliated foundation, which is "to facilitate and support fund raising programs and contributions from private sources to promote the general welfare of MPBC." Since funds from State agencies are public funds, we question the classification of payments as "private sources" of fund raising. Additionally, by not depositing the funds into a State controlled account (such as a reimbursable or special fund), the funds were not transparent to budgetary oversight by the Department of Budget and Management and the Maryland General Assembly.

## **Recommendation 2**

**We recommend that MPBC**

- a. discontinue the practice of diverting State funds to its affiliated foundation (for both funds State agencies pay directly to the foundation and funds MPBC directly receives); and**
- b. recover the funds improperly diverted to the affiliated foundation for deposit into a State controlled account (such as a reimbursable or special fund) that is transparent to budgetary oversight by the Department of Budget and Management and the Maryland General Assembly.**

## Procurements and Disbursements

### **Finding 3**

**MPBC continued to use the services of a vendor for several years after the related contract had expired and did not adequately ensure amounts invoiced were proper.**

### **Analysis**

MPBC continued to use the services of a vendor for several years after the related contract had expired and did not adequately ensure that the amounts invoiced were proper. MPBC orders premium gifts (such as, DVDs, CDs, and books) from the vendor based on gifts selected by its donors. The vendor shipped the premium gifts directly to the donors and invoiced MPBC for the items shipped. Our review disclosed that the contract with the vendor expired on September 9, 2020, but MPBC continued to use the vendor through June 2023. MPBC paid the vendor approximately \$1.1 million for services provided through June 2023, subsequent to the contract expiration without a formal contract extension.

In addition, although MPBC reviewed and verified the invoiced costs for premium gifts shipped on a test basis, it did not compare the number of premium gifts billed by the vendor with its record of premium gifts ordered by donors. Consequently, MPBC lacked assurance that the vendor only billed for gifts ordered by MPBC's donors. We tested three invoices totaling \$110,800 for gifts ordered between March 2021 and April 2023, and determined the cost of premium gifts charged agreed to the cost quoted on the vendor's price list. We also compared the number of premium gifts billed by the vendor with the record of premium gifts ordered by donors and did not note any discrepancies. The Comptroller of Maryland's *Accounting Procedures Manual* requires that agencies ensure vendor invoices agree with the related contract.

### **Recommendation 3**

**We recommend that MPBC**

- a. procure a new contract for premium gifts and discontinue using the services of a vendor after a contract has expired; and**
- b. ensure, at least on a test basis, that it compares the number of premium gifts billed by the vendor with its record of premium gifts ordered by donors.**

**Finding 4**

**MPBC did not always comply with State procurement regulations for its non-exempt procurements and intergovernmental cooperative purchasing agreements including documenting bid openings and publishing contract awards on *eMaryland Marketplace Advantage*.**

**Analysis**

MPBC did not always comply with State procurement regulations for its non-exempt procurements and its Intergovernmental Cooperative Purchasing Agreements (ICPA) including documenting bid openings and publishing contract awards on *eMaryland Marketplace Advantage (eMMA)*.<sup>1</sup> According to MPBC records, during the period June 2019 to June 2023, MPBC procured 16 non-exempt contracts valued at approximately \$1.6 million and 2 ICPAs valued at \$5.8 million. Our review of five contracts totaling \$6.4 million (three non-exempt contracts totaling \$600,000 and two ICPAs totaling \$5.8 million) procured between February 2021 and October 2022, disclosed the following conditions.

- MPBC did not document the bid opening process for two non-exempt contract awards tested totaling \$547,000. Specifically, MPBC could not document that at least two State employees were present to witness the bid openings or document that the bids were opened publicly as required.
- MPBC did not publish any of these five contract awards on *eMMA* as required. Publishing awards on *eMMA* provides improved transparency over State procurements including information about winning bidders and the amount of the related awards.

State procurement regulations require documentation that bids are opened with at least two employees present or publicly. The regulations further require awards to be published on *eMMA* within 30 days after approval of the contract. Additionally, the Department of General Services' *Maryland Procurement Manual* requires that ICPA awards be published on *eMMA* within 30 days after approval of the contract.

A similar condition regarding the failure to publish contract awards was commented upon in our preceding audit report. In response to that report, MPBC agreed that it would publish contract awards on *eMMA* by Spring 2020. However, as noted above it did not take the corrective action as stated and we were advised by MPBC management that this was an oversight.

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<sup>1</sup> *eMMA* is an internet-based, interactive procurement system managed by the Department of General Services.



#### **Recommendation 4**

**We recommend that MPBC comply with State procurement regulations and the *Maryland Procurement Manual* for its non-exempt procurements and ICPAs. Specifically, we recommend that MPBC**

- a. document bid openings by at least two employees; and**
- b. publish contract awards on *eMMA* as required, including the aforementioned contract awards (repeat).**

### **Corporate Purchasing Card**

#### **Finding 5**

**Supervisory reviews of corporate purchasing card (CPC) activity logs were not always documented and did not use available Level-3 data to help ensure the propriety of the purchases, as required.**

#### **Analysis**

Supervisory reviews of CPC activity logs were not always documented and did not use available Level-3 data to help ensure the propriety of the purchases, as required. According to State records, during the period from July 2, 2018 through April 24, 2023, MPBC processed 14,959 CPC transactions totaling approximately \$4.4 million.

- Supervisory reviews of CPC activity logs were not always documented as required. Specifically, our review of 18 transactions totaling approximately \$59,200 disclosed that for 9 transactions totaling \$29,300, there was no evidence of supervisory review. For example, the cardholder CPC activity log that included a purchase of computers totaling \$7,800 was not signed by a supervisor as being reviewed and approved. For the 9 transactions without supervisory review, the total transactions on the related CPC activity logs totaled \$113,000. Our review of the 9 transactions disclosed that they appeared to be reasonable.
- Supervisory reviews of monthly CPC activity logs did not use available Level-3 data to ensure the propriety of the purchases as required. Level-3 data, which is reported by certain merchants, consist of detailed descriptions of items purchased and provide supervisors with additional information to help detect questionable purchases. During the period from July 2, 2018 through April 24, 2023, we determined that Level-3 data were available for 3,754 of MPBC's CPC transactions totaling approximately \$1.2 million. Based on our review of the available Level-3 data, we did not identify any questionable purchase descriptions.

The Comptroller of Maryland's *Corporate Purchasing Card Program Policy and Procedures Manual* requires agencies to perform a documented supervisory review of monthly CPC cardholder activity logs and transactions. The *Manual* further requires agencies to verify Level-3 data to CPC activity logs and document monthly reviews of Level-3 data as part of transaction monitoring.

#### **Recommendation 5**

**We recommend that MPBC comply with the *Manual* by**

- a. performing a documented independent supervisory review for the propriety of all CPC purchases, and**
- b. ensuring supervisors use available Level-3 data as part of the monthly review to aid in the assessment of the propriety of purchases and payments.**

## **Cash Receipts**

### **Finding 6**

**MPBC did not segregate the duties of cash receipts and maintaining accounts receivable records, as required.**

#### **Analysis**

MPBC did not segregate duties of processing cash receipts and maintaining accounts receivable records, as required. Specifically, the employee who received and processed cash receipts for deposit was also responsible for posting the related collections to accounts receivable records. Consequently, there is a risk that collections could be misappropriated without being readily detected. Our test of 10 collections received between August 2021 to April 2023 totaling approximately \$4.6 million disclosed that the related deposits were made intact, and payments were properly posted to the related account receivable record.

According to MPBC's records, collections received in fiscal year 2023 totaled approximately \$6.5 million, of which \$5.4 million were collections associated with an accounts receivable record. MPBC accepts checks and cash for donations to Maryland Public Television, as well as payments for advertising services and cell tower rentals. The Comptroller of Maryland's *Accounting Procedures Manual* requires segregation of the cash receipts handling duties from accounts receivable record functions.

**Recommendation 6**

**We recommend that MPBC properly segregate the duties of processing cash receipts and maintaining accounts receivable records.**

**We advised MBPC how to achieve the necessary separation of duties using existing personnel.**

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

We have conducted a fiscal compliance audit of the Maryland Public Broadcasting Commission (MPBC) for the period beginning June 18, 2019 and ending June 30, 2023. 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.

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 purchases and disbursements, payroll, revenue and cash receipts, accounts receivable, and corporate purchasing cards. We also determined the status of the findings contained in MPBC's preceding audit report.

MPBC engaged an independent accounting firm to perform audits of the combined financial statements of MPBC and the Maryland Public Television Foundation, Inc. Based on significance and risk, we reviewed the financial statements for fiscal years 2020, 2021, 2022, and 2023. In the related audit reports, the firm stated that the combined financial statements presented fairly, in all material respects, the assets, liabilities, and net assets of MPBC and the Foundation, as of June 30 for the years then ended in accordance with Financial Reporting Guidelines prescribed by the Corporation for Public Broadcasting. Our reliance on these audits was limited to information for background information purposes.

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 June 18, 2019 to June 30, 2023, 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 MPBC's operations. Generally,

transactions were selected for testing based on auditor judgment, which primarily considers risk, the timing or 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 expenditure data), as well as from the contractor administering the State's Corporate Purchasing Card Program (credit card activity). 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. 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.

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. 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 MPBC, 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 MPBC'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. Finally, this report includes a finding, which is identified as a "Policy Issue". Such findings represent significant operational or financial-related issues for which formal criteria may not necessarily exist, and for which management has significant discretion in addressing, but the recommendation represents prudent and/or practical actions, which we believe should be implemented by the agency to improve outcomes. 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.

Joint Audit and Evaluation Committee Letter of Concern and MPBC Response



THE MARYLAND GENERAL  
ASSEMBLY  
ANNAPOLIS, MARYLAND 21401-1991

JOINT AUDIT AND EVALUATION COMMITTEE

October 28, 2020

Mr. Larry D. Unger  
President and CEO, Maryland Public Television  
11767 Owings Mills Boulevard  
Owings Mills, Maryland 21117-1499

Dear President Unger:

A primary responsibility of the Joint Audit and Evaluation Committee is to review audit reports issued by the Office of Legislative Audits (OLA). The committee's review of the June 2020 fiscal compliance audit of the Maryland Public Broadcasting Commission (MPBC) indicates that additional monitoring is warranted due to the nature and significance of the findings. Among the audit findings:

- MPBC did not establish formal policies and procedures to address revenue generating activities of its affiliated foundation. MPBC also did not effectively monitor the affiliated foundation and could not document that it received and reviewed the conflict of interest disclosures for foundation board members and officers. The audit report included a number of recommendations regarding the comprehensiveness of the agreement between MPBC's affiliated foundation and MPBC and regarding the adequacy of the procedures to ensure and document that potential or actual conflicts of interest were identified and properly resolved.
- MPBC disagreed with the analysis and recommendations of this finding based primarily on the premise that the foundation is an independent legal entity. Notwithstanding that disagreement, MPBC has indicated to OLA that it will (1) review the policies of the foundation to determine if any new ones need to be created; (2) continually monitor the foundation's revenue generating activities; and (3) document the receipt and review of the annual conflict of interest disclosures by foundation board members and officers.
- OLA advises, considering the significant revenue provided to MPBC by the foundation from corporate underwriters and sponsors, that MPBC needs to ensure

## Exhibit 1

# Joint Audit and Evaluation Committee Letter of Concern and MPBC Response

Mr. Larry D. Unger

October 28, 2020

Page 2

that comprehensive and appropriate documented oversight of the foundation's activities is in place. The audit report highlighted areas where MPBC's policies and procedures could be enhanced for that purpose.

- MPBC's procurement policies and procedures were not sufficiently comprehensive and certain critical provisions were not approved by MPBC's governing commission. In addition, MPBC did not obtain approval for certain exempt procurements and did not publish certain nonexempt contract awards on *eMaryland Marketplace*, as required.
- MPBC did not obtain and review the required independent control review of its fundraising service vendors and, as a result, certain security concerns over fundraising data were not identified by MPBC and addressed with the vendor in a timely fashion.
- MPBC had either not performed or did not adequately perform monthly reconciliations of its donor collections to its donor database for the period from August 2018 to August 2019.

The committee requests that you review this audit report and ascertain whether the recommendations have been or will be promptly implemented and that an ongoing monitoring process exists to help ensure that the corrective action remains in place.

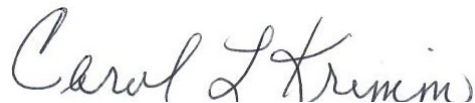
Please provide the committee with a report by December 1, 2020, that outlines the status of implementation of **all** fiscal/compliance recommendations in the audit report – including progress made on promised actions related to MPBC's affiliated foundation. Also, please advise the committee as to what specific monitoring procedures were established to help ensure that recommendations will be implemented and will remain implemented.

The committee intends to closely monitor agency implementation of audit recommendations throughout State government. Implementation will improve accountability and control over State resources, enhance compliance with laws and regulations, and make State programs more effective. Thank you for your cooperation.



Senator Clarence K. Lam  
Senate Chair

Sincerely,



Delegate Carol L. Krimm  
House Chair

CKL:CLK/EJA/dw

cc: Members, Joint Audit and Evaluation Committee  
Mr. Gregory A. Hook



Joint Audit and Evaluation Committee Letter of Concern and MPBC Response

MARYLAND PUBLIC TELEVISION

11767 OWINGS MILLS BLVD  
OWINGS MILLS MD 21117-1499

T 410.581.4141 F 410.581.6579  
WWW.MPT.ORG



LARRY D. UNGER  
PRESIDENT & CEO

December 3, 2020

Senator Clarence K. Lam  
Delegate Carol L. Krimm  
Joint Audit and Evaluation Committee  
The Maryland General Assembly  
Annapolis, MD 21401-1991

re: Committee letter of October 28, 2020, on MPBC OLA audit

Dear Senator Lam and Delegate Krimm:

I am writing in response to your letter dated October 28, 2020, sent to me by email. The letter requests a status report on the progress made by the Maryland Public Broadcasting Commission (MPBC) on its promised actions in connection with the Office of Legislative Audits (OLA) June 2020 fiscal compliance audit. I'm pleased to report that the MPBC has performed all the cooperative actions that it said it would take in response to the audit findings.

Your October 28 letter contained four main bullet items, so I will reassure you about each one in turn.

With respect to your first bullet referring to revenue-generating activities by MPBC's affiliated 501(c)(3) foundation, MPBC asserted that it would

*“(1) review the policies of the foundation to determine if any new ones need to be created; (2) continually monitor the foundation’s revenue generating activities; and (3) document the receipt and review of the annual conflict of interest disclosures by foundation board members and officers.”*

Accordingly, the MPBC conducted an internal review of the foundation policies this fall. The foundation, its external auditors, and MPBC are working to determine best practices to provide documentation to MPBC to best address revenue-generating activities. In the meantime, MPBC is continuing to monitor these activities so that MPBC can cooperate fully with the spirit and the letter of the OLA audit. With respect to the conflict of interest disclosures, MPBC certainly will document its standard review of

Joint Audit and Evaluation Committee Letter of Concern and MPBC Response

Senator Clarence K. Lam  
Delegate Carol L. Krimm  
December 3, 2020  
page 2

those foundation director disclosures when the disclosures are submitted to us in 2021.

Your second major bullet references procurement policies and exemptions. I am able to advise that MPBC did amend its exemption policies and procedures to comply with the OLA audit recommendations. The two contracts that were missed in the review process were immediately addressed when brought to MPBC's attention. A new procedure has been implemented to prevent a repeat occurrence. The one contract award that was not posted on *eMaryland Marketplace* was immediately addressed as well. A new procedure has been implemented to prevent a repeat occurrence.

Your third bullet relates to MPBC's use of a third-party fundraising service vendor to enhance its fundraising activities. I can report that the MPBC did receive the latest SOC Type 2 report from this vendor so that we know that sensitive information and customer data is safeguarded by the vendor's internal controls. A procedure has been adopted to receive the audit when completed.

Your final October 28 bullet referenced that monthly reconciliations for a 12-month period in 2018 and 2019 were not adequately performed. MPBC was in the process of switching database providers at that time. Monthly reconciliations are completed.

Based on this report, I hope you will agree that the Maryland Public Broadcasting Commission evidenced prompt cooperation and responded appropriately and thoroughly to the OLA audit and its recommendations. Please let me know if I can furnish additional information or respond to any remaining concerns.

Sincerely,



Larry D. Unger

LDU/fm

cc: Gregory A. Hook, CPA, Office of Legislative Audits  
S. Schwertman, CFO, Maryland Public Television

## APPENDIX

MARYLAND PUBLIC TELEVISION

11767 OWINGS MILLS BLVD  
OWINGS MILLS MD 21117-1499

T 410.581.4141 F 410.581.6579  
WWW.MPT.ORG



TV WORTH  
WATCHING

LARRY D. UNGER  
PRESIDENT & CEO

September 30, 2024

Mr. Brian S. Tanen, CPA, CFE  
Legislative Auditor  
Maryland Office of Legislative Audits  
Warehouse at Camden Yards  
351 W. Camden Street, Suite 400  
Baltimore, MD 21201

Dear Mr. Tanen:

Attached please find the agency response from the Maryland Public Broadcasting Commission.

Please let me know if I can be of further assistance.

Sincerely, y,

A handwritten signature in black ink, appearing to read "Larry D. Unger", is written over a light gray horizontal line.

Larry D. Unger  
President & CEO  
Maryland Public Television

Agency Response Form

**Affiliated Foundation**

**Finding 1 (Policy Issue)**

**MPBC would not provide documentation of corrective action taken to address concerns with its affiliated foundation in response to our preceding audit report recommendations and a JAEC letter of concern.**

**Recommendation 1**

**We recommend that MPBC take corrective actions to address concerns and implement best practices for its affiliated foundation. Specifically, we recommend that MPBC document and retain for subsequent audit verification the following:**

- a. a review of the affiliated foundation collections process including procedures to safeguard, invest and timely transfer of collections to MPBC (repeat);**
- b. a review of the affiliated foundation procedures to control the terms of underwriting and sponsorship agreements (repeat);**
- c. monitoring of revenue generating activities (repeat); and**
- d. receipt and review of the annual conflict of interest disclosures by its affiliated foundation board members and officers (repeat).**

<b>Agency Response</b>	
<b>Analysis</b>	<b>Not Factually Accurate</b>
<b>Please explain any concerns with factual accuracy.</b>	<p><i>Access to Records of Affiliated Foundation</i></p> <p>At its core, Finding 1, rests upon the OLA’s continued attempts to gain access to the books and records of the MPT Foundation, Inc. (the “Foundation”), a foundation affiliated with MPBC organized as a 501(c)(3) nonprofit corporation in accordance with the authority of Md. Education Article § 24-207 (b)(1). Although the OLA concedes that it has been advised by the legal counsel to the General Assembly that the Foundation is not required to provide the OLA with access to its records or operations, the OLA asserts that MPBC <i>could</i> allow the OLA access to these Foundation materials. This is incorrect.</p> <p>OLA’s authority to access records in connection with an audit is found in State Government Article (“SG”) § 2-1223. In conducting an audit, OLA shall “have access to and may inspect the records, including those that are confidential by law, of any <i>unit of the State government</i> or of a person or other body receiving State funds, with respect to any matter under the jurisdiction of the Office of Legislative Audits,” except as prohibited by the Internal Revenue Code. SG § 2-1223(a)(1) (emphasis added).</p>

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In addition to the 2019 legal advice cited in the OLA's background information in Finding 1, the Office of the Attorney General has repeatedly advised the OLA that State law does not allow the OLA to access records of foundations affiliated with State entities, since such a foundation is not a "unit" of State Government and does not receive any State funds. *See 77 Opinions of the Attorney General 88, 96-97 (1992)* (noting that the records of a private fundraising foundation affiliated with a public university that does not receive State money are inaccessible by OLA, notwithstanding that it raises money or otherwise generates revenue for the university); Letter from AAG Robert A. Zarnoch to Mr. Charles C. Piazza, Deputy Legislative Auditor, October 9, 1980 (concluding that State law does not authorize OLA to obtain private audit records of the Morgan State Foundation, Inc.).

The OLA's statement that MPBC could still provide access to the Foundation's books and records ignores the fact that, though MPBC and the Foundation share facilities, and as permitted by MPBC's enabling legislation, certain staff, the books and records of the Foundation are maintained separately from those of MPBC. The Foundation books and records are simply not those of MPBC; only the Foundation, which is governed by a separate and independent board of directors, can agree to grant such access. MPBC is not the parent of the Foundation; as Md. Education Article §24-207 clearly contemplates, the Foundation is affiliated, not controlled, by MPBC. MPBC cannot direct the Foundation to comply with the OLA's request for the Foundations books and records without jeopardizing the corporate separateness of the Foundation.

*Affiliated Foundation Conflict of Interest Policy*

There are certain aspects of the Foundation's operations over which MPBC is statutorily required to exercise a degree of control pursuant to its enabling legislation. The Foundation is required to "operate subject to policies adopted by the Commission." Md. Education Article §24-207 (b)(2)(i). MPBC has complied with this statutory requirement by adopting guidelines governing MPBC's relationship with affiliated foundations (the "General Foundation Guidelines"), and the Foundation has agreed to abide by these General Foundation Guidelines in the agreement between MPBC and the Foundation (the "Foundation Agreement"). MPBC has also adopted a *Conflicts of Interest Policy for Boards of Directors and Officers of Affiliated Foundations* (the "COI Policy"), which any foundation affiliated with MPBC is required to operate and which, as required by Md. Education Article §24-207 (b)(2)(ii), has been reviewed and approved by the State Ethics Commission."

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	<p>Pursuant to the COI Policy, the Foundation’s board members and officers are required to complete a questionnaire on an annual basis (the “COI Disclosure Forms”). These COI Disclosure Forms are submitted to the Foundation and maintained in the files of the Foundation. As such, the COI Disclosure Forms constitute records of the Foundation, which, as explained in detail above, are not subject to disclosure to or audit by the OLA.</p> <p>The statement that MPBC did not provide the OLA with access to the COI Disclosure Forms is correct. The Foundation’s process for COI Disclosure Forms is as follows:</p> <ul style="list-style-type: none"><li>• Every Foundation board member completes a COI Disclosure Form at the beginning of each calendar year.</li><li>• These COI Disclosure Forms are reviewed upon receipt.</li><li>• At present, the Foundation has had no conflicts of interest to report to MPBC. Therefore, as there were no conflicts disclosed to MPBC, there was nothing MPBC could provide to the OLA.</li></ul> <p>MPBC agrees with the statement in Finding 1 that “to the extent MPBC has received notices of potential conflict from foundation board members and officers under the [COI Policy],” the OLA would be entitled to documentation of such potential conflicts.</p>
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**Auditor’s Comment:** MPBC disagrees with the factual accuracy of the Analysis based primarily on the inference that only records obtained directly from its affiliated foundation would provide sufficient documentation of its monitoring efforts. As noted in our preceding and current audit report findings, OLA does not dispute the independence of MPBC’s affiliated foundation. As such, the basis of the preceding report finding, the subsequent letter of concern from the Joint Audit and Evaluation Committee (JAEC), and the current report finding continues to be MPBC’s ability to provide evidence that it is monitoring its affiliated foundation. The standard to monitor the affiliated foundation is no different than the standard for an agency to monitor any independent entity doing business with the agency (such as, a contractor or grantee).

Our current report finding was focused on our inability to document that MPBC implemented the oversight described in its response to the JAEC. Specifically, MPBC’s December 3, 2020 response to the JAEC stated that it agreed to cooperate fully with the spirit and the letter of our audit and conduct a review of the affiliated foundation’s policies, developing best practices for its revenue generating activities and monitoring the revenue generating activities. As noted in the finding, we attempted to obtain documentation to support MPBC’s efforts, but MPBC would not provide us with any

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documentation and accordingly, we could not verify if MPBC took the actions described in its response to the JAEC.

Based on the information above, we continue to believe our finding is both accurate and appropriate, and that our recommendations will provide the necessary transparency and accountability over MPBC financial activities, including those arising from its financial transactions made with, or on its behalf by, the independent affiliated foundation.

<b>Recommendation 1a</b>	Agree	<b>Estimated Completion Date:</b>	6/30/25
<b>Please provide details of corrective action or explain disagreement.</b>	<p>MPBC has begun the process of reviewing the Foundation Agreement to determine what, if any, updates are required. As part of this review, MPBC is also reviewing the appropriate structure for policies and procedures detailing the timing of the transfer of money from the Foundation to MPBC.</p> <p>It should be noted as to Recommendation 1a, however, that the Foundation itself already employs practices for the safeguarding and investment of funds held by the Foundation. The Foundation has established policies and defined standards for risk tolerance and recommended deployment of investments.</p> <p>The General Foundation Guidelines provide that a foundation associated with MPBC should be established as a 501(c)(3) organization and shall be a separate legal entity from MPBC. The Foundation was established as such and operates pursuant to these General Foundation Guidelines, its charter and bylaws, Business Procedures, a Statement of Investment Policies and Objectives (the "Investment Policy"), and the Foundation Agreement.</p> <p>The General Foundation Guidelines provide that one of the purposes of the Foundation is to accumulate funds to be invested and to utilize the principal and income thereof for activities that enhance and further the mission of MPBC. It is the responsibility of the Foundation to abide by the policies for investment of Foundation assets. To that end, the Foundation board has adopted an Investment Policy, which is reviewed and updated by the Foundation board, its Investment Committee, and an investment advisor retained by the Foundation. The Investment Policy is designed to ensure that the Foundation exercises prudent judgement in the management of the Foundation assets to support MPBC.</p> <p>Under the Investment Policy, an Investment Committee of the Foundation is responsible for directing and monitoring the investment management of</p>		

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	<p>the Foundation assets, and an investment advisor engaged by the Foundation has discretionary investing authority and provides quarterly performance and Investment Policy compliance reporting to the Investment Committee. This structure is typical in the industry for the investment of assets, and MPBC believes that it is more than sufficient to ensure the safeguarding and investment of Foundation assets.</p> <p>The funds donated to the Foundation (i.e., via underwriting, sponsorships, and other private donations) are held by the Foundation. These Foundation assets are eligible for disbursement to MPBC upon the presentation of an invoice from MPBC to fund MPBC’s operational, programming, and other project costs.</p> <p>As noted above, MPBC has already begun the process of reviewing the policies of the Foundation and other relevant policies and procedures and determine what, if any, changes may be necessary. In this regard, it should be noted again that because the Foundation and MPBC are distinct legal entities and certain of the procedures employed by the Foundation for its safeguarding and investment of assets relate to the day-to-day operations of the Foundation, it may not be appropriate for MPBC to dictate the processes employed by the Foundation. Although, as stated in the notes to MPBC’s audited financial statements, MPBC and the Foundation are financially inter-related, it is of paramount importance that the legal separateness of the two entities is maintained. If MPBC were to exert control over the Foundation board’s decision making, the Foundation could be subject to claims that it is merely an “alter ego” of MPBC, which, in turn, raises concerns of piercing the corporate veil.</p>		
<b>Recommendation 1b</b>	Disagree	<b>Estimated Completion Date:</b>	
<b>Please provide details of corrective action or explain disagreement.</b>	<p>The underwriting and sponsorship agreements are negotiated and entered into by the Foundation. The Foundation maintains records of the arrangements, including the specific terms of such arrangements (e.g., amount of underwriting commitment, program being underwritten, payment schedule for the underwriting commitment). Standardization of the terms of underwriting and sponsorship agreements is contrary to the nature of the public television business. As challenging as it is to attract sponsorships or underwriting, the Foundation would be operating at a distinct disadvantage if it were to use some sort of standardized pricing for underwriting. Each underwriting transaction is as unique as the program that is being produced, and these transactions are negotiated at arm’s length by the Foundation and a potential underwriter.</p>		



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	<p>The broad spectrum of programs offered by MPBC (e.g., <i>Motorweek</i>, <i>Maryland Farm &amp; Harvest</i>, <i>Chesapeake Collectibles</i>, <i>Becoming Frederick Douglass</i>, and <i>Harriett Tubman: Visions of Freedom</i>) are vastly different from one another, with different production timelines, different budgets, different audiences, and different distributors (i.e., PBS, APT, or MPT). A uniform approach simply does not work for a public media organization.</p>
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**Auditor's Comment:** MPBC disagrees with our recommendation stating that the affiliated foundation would be operating at a distinct disadvantage if standardized pricing was implemented. Given the significance of these agreements to fund MPBC programming, we believe that MPBC should document its review of affiliated foundation procedures to control the terms of underwriting and sponsorship agreements.

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Recommendation 1c	Disagree	Estimated Completion Date:	
<p><b>Please provide details of corrective action or explain disagreement.</b></p>	<p>All revenue contracts (e.g., underwriting and sponsorship agreements) between donors and the Foundation are reviewed for compliance with FCC, PBS and MPT guidelines. These revenue-generating activities and agreements are also reviewed by the Foundation representative assigned to the activity or client and then approved by senior management of the Foundation. Further, the independent certified public accounting firm engaged by the Foundation to perform its financial audit during the legislative audit period also prepared the agreed-upon procedures report (the “AUP Report”) describing the independent auditor’s review of the procedures set forth in COMAR .01.02.04.20-1C.</p> <p>This review and the resultant AUP Report included a review of a sample of the Foundation’s revenue transactions. The AUP Report, which was included in the annual report filed with the Maryland Secretary of State, did not include any recommendations for corrective action with respect to the processes covered by the AUP Report. Therefore, MPBC does not believe that any changes to the Foundation processes with respect to revenue-generating activity are necessary or appropriate.</p>		

**Auditor’s Comment:** MPBC disagrees with our recommendation stating that the revenue-generating activities of the affiliated foundation are subject to review by an independent accounting firm performing agreed-upon procedure reviews. However, MPBC would not provide any documentation of these reviews citing the independence of the affiliated foundation. As a result, we could not verify the adequacy of the agreed-upon procedure reviews.

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<b>Recommendation 1d</b>	Agree	<b>Estimated Completion Date:</b>	6/30/25
<b>Please provide details of corrective action or explain disagreement.</b>	<p>To the extent a conflict was to be disclosed to MPBC in the COI Disclosure Forms, MPBC agrees that the OLA would be entitled to information with respect to such conflict, including the disclosure to MPBC from the Foundation, and MPBC would provide such information. To be clear, there were no conflicts disclosed to the Foundation on the COI Disclosure Forms submitted to the Foundation by the Foundation board members. Therefore, there was nothing MPBC could provide to the OLA.</p> <p>However, in an effort to alleviate the OLA’s continued concern with this issue, we have determined that upon review of the annual COI Disclosures Forms, a written memorandum indicating if any conflicts exist, including instances where no such conflicts exist, will be prepared for MPBC to document such review, and the memorandum will be retained in MPBC’s records. The OLA will have access to these confirmatory memoranda in future audit periods.</p>		

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**Finding 2**  
**MPBC could not justify the diversion of approximately \$1.3 million in State revenue to the affiliated foundation during fiscal years 2020 through 2023.**

**Recommendation 2**

**We recommend that MPBC**

- a. discontinue the practice of diverting State funds to its affiliated foundation (for both funds State agencies pay directly to the foundation and funds MPBC receives), and**
- b. recover the funds improperly diverted to the affiliated foundation for deposit into a State controlled account (such as, a reimbursable or special fund) that is transparent to budgetary oversight by the Department of Budget and Management and the Maryland General Assembly.**

<b>Agency Response</b>	
<b>Analysis</b>	<b>Not Factually Accurate</b>
<p><b>Please explain any concerns with factual accuracy.</b></p>	<p>MPBC disagrees with and objects to the use of the term “divert” to describe the flow of funds between itself and the Foundation, as such terminology suggests an intent to conceal or bypass the State budgetary process and oversight. MPBC rejects the categorization of the transfer of funds between itself and the Foundation as a “diversion.” To be clear, MPBC did not divert State funds to the Foundation.</p> <p>During the audit period and in accordance with the Foundation Agreement, the Foundation transferred a total of \$7.5 million to MPBC. The balance of the funds that are held by the Foundation are subject to investment pursuant to the Foundation’s Investment Policy and transferred to MPBC at the point at which MPBC requires the use of such funds for, among other things, production costs and expenses. A portion of retained funds are used to support the Foundation’s operations, including the payment of compensation to the Foundation’s employees.</p> <p>In calculating the \$1.3 million referenced in Finding 2, the OLA is conflating two distinct contractual arrangements: (1) MPBC contracts with Maryland State entities for advertising, marketing, communications, and media buying through Maryland State Ad Agency, a division of MPBC (“MSAA”); and (2) underwriting agreements between the Foundation and other entities, including Maryland State entities, for the support of specific Maryland Public Television on-air programming.</p> <p>Certain of the underwriting agreements should not have been included in the OLA’s calculation of the \$1.3 million it contends MPBC improperly</p>

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transferred to the Foundation. The OLA included \$642,400 in funds paid to the Foundation by 501(c)(3) organizations pursuant to underwriting agreements between these non-State entities and the Foundation. Subtracting the dollar value of these underwriting agreements between the Foundation and these 501(c)(3) organizations from the OLA's \$1.3 million total, MPBC can only identify \$745,840, consisting of (a) \$509,500 paid by Maryland State entities to the Foundation under valid underwriting agreements, and (b) \$236,340 transferred from MPBC to the Foundation pursuant sponsorship agreements between MPBC and the Foundation and related to the payment for placement of media on Maryland Public Television by Foundation employees.

Inter-Agency Memoranda of Understanding with Maryland State Entities: \$236, 240

In the first category of agreements, a Maryland State entity submits payment to MPBC pursuant to the terms and conditions set forth in an Inter-Agency Memorandum of Understanding ("MOU") between MPBC and the Maryland State entity. The MOU includes a statement of work which details the services MSAA is obligated to provide under the MOU. These services include, *inter alia*, the production of commercial advertising spots for the Maryland State entity and media placement of such spots. An MOU also includes a project budget detailing the media buys and other costs associated with the contracted project.

The bulk of the funds paid to MPBC/MSAA pursuant to an MOUs is for the work MSAA performs directly for the Maryland State entity. However, a small portion (approximately 10%) of the MOU price represents compensation to the Foundation for the placement of spots on Maryland Public Television. These placements are made by Foundation employees who serve as account executives. MPBC/MSAA does not charge a placement fee for the placement of spots on Maryland Public Television; however, the account executives employed by the Foundation do receive a commission for the media placement in accordance with commission rates standard in the industry. The payment for this compensation by MPBC to the Foundation is made pursuant to a sponsorship agreement between MPBC and the Foundation.

For the funds to be paid to MPBC pursuant to these MOUs, MPBC has established special and reimbursable funds for billing and collection under the MOUs for services performed by MPBC/MSAA. These funds are accounted for in the State FMIS and deposited into a State-controlled account of record, less a portion of such MOU payments used to cover the administrative costs for the Foundation's activities.

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The \$236,340 transferred from MPBC to the Foundation represents the amount MPBC paid to the Foundation for the placement of the above-referenced spots on Maryland Public Television in connection with the services rendered by MSAA under MOUs. The transfers themselves were made pursuant to the sponsorship agreements between MPBC and the Foundation. In order for MPBC to transfer these funds to the Foundation, MPBC requires substantiation of the amounts to be transferred (i.e., the aforementioned sponsorship agreements and documentation of the commissions for media placement by Foundation employees).

Underwriting Agreements – Foundation and Maryland State Entities:  
\$509,500

MPBC is not a party to the underwriting agreements. These agreements are agreements between the Foundation and Maryland State entities pursuant to which a Maryland State entity agrees to make a donation to the Foundation to support the production and broadcast of specific programming (e.g., *Maryland Farm & Harvest*). Underwriting agreements with Maryland State entities represented \$509,500 during the audit period. It appears that these are the agreements OLA obtained directly from certain Maryland State entities. However, as explained in detail in response to the OLA's Finding 1 analysis, the books and records of the Foundation are not subject to audit by the OLA.

To be clear, the funds payable by Maryland State and private entities to the Foundation are paid directly to the Foundation and held by the Foundation until such funds are required for the production being underwritten. The timeframe for how long the Foundation has historically held these funds depends on the production being underwritten as well as the payment schedule associated with a particular sponsorship agreement. Ongoing production of series such as *Maryland Farm & Harvest* and *Outdoors Maryland* are going to have different timelines for fund transfers to MPBC than long-form documentaries such as *Becoming Frederick Douglass* and *Harriett Tubman: Visions of Freedom*, which were feature films in production for several years (with transfers from the Foundation to MPBC to support these productions occurring across fiscal years). Much of the funds that are transferred is attributable to the payment of salary and benefits for the staffing (e.g., writers, producers, directors, editors, actors and other artists, videographers and other technicians) of the different productions. The level of staffing on different productions is necessarily affected by the type of production. The resultant timeline differences are directly related to any lag in the movement of underwriting funds from the Foundation to MPBC in any given year. As indicated above under our

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	response to Recommendation 1a, the funds paid into the Foundation are transferred to MPBC upon presentation of an invoice for such transfer, subject to the Foundation’s retention of an amount sufficient to support its operations and administrative expenses.
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**Auditor’s Comment:** While MPBC agrees with our recommendation, it disagrees with our use of the term “diversion” in the analysis and does not agree that \$1.3 million represents the total dollar amount of the described activities. In regard to the term ‘diversion’, we continue to believe this term is appropriate since MPBC could not support the basis for directing State agencies to send payments to the affiliated foundation for activities managed by MPBC. In regard to the total dollar amount of \$1.3 million, as noted in the finding, this amount is based on State accounting records. Furthermore, MPBC was provided an opportunity during and subsequent to the audit to document the figures referenced in its response, however MPBC provided us with internal records instead of State accounting records. Given the conflicting dollar amounts and lack of a sufficient explanation, we continue to believe the \$1.3 million amount noted in the finding is accurate.

<b>Recommendation 2a</b>	Agree	<b>Estimated Completion Date:</b>	6/30/2025
<b>Please provide details of corrective action or explain disagreement.</b>	Although MPBC continues to object to the OLA’s categorization of the flow of funds into the Foundation as a diversion. However, MPBC recognizes the OLA’s concerns with funds from Maryland State entities being paid to the Foundation. Although MPBC believes these transfers were proper and appropriately documented, MPBC has determined that it should reconsider the current structure to eliminate these transfers when funds are paid by Maryland State entities. MPBC agrees to prospectively restructure its processes as they relate to MOUs and underwriting arrangements with Maryland State entities such that (a) MPBC will no longer use the Foundation sponsorship agreement structure to transfer funds from MPBC to the Foundation; and (b) underwriting funds from Maryland State entities will be paid directly to MPBC. MPBC can implement the restructuring of certain aspects of the current structure immediately. However, MPBC requires time to fully consider the impact these structural changes will have on MPBC and the Foundation. Therefore, MPBC anticipates that the restructuring itself can be made on or before the beginning of the FY2026.		
<b>Recommendation 2b</b>	Disagree	<b>Estimated Completion Date:</b>	

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<p><b>Please provide details of corrective action or explain disagreement.</b></p>	<p>Although MPBC agrees to prospectively restructure its processes as they relate to funds paid to it and the Foundation by Maryland State entities, there is no reason for the Foundation to transfer funds back to MPBC.</p> <p>The \$236,240 transferred from MPBC to the Foundation pursuant to sponsorship agreements were properly transferred to the Foundation. Prior to initiating these transfers, MPBC required and received supporting documentation substantiating the validity of the amounts to be transferred. Copies of the supporting documentation for these sponsorship contract-related transfers were provided to the OLA during the audit process.</p> <p>The \$509,500 donated directly to the Foundation pursuant to underwriting agreements were properly paid to the Foundation pursuant to valid contracts to which MPBC is not a party. The funds paid by sponsors in support of a particular production are held by the Foundation until such time as the funds are required for the production, at which time they are transferred to MPBC pursuant to MPBC's agreement with the Foundation.</p> <p>To require the Foundation to transfer \$745,840 (the portion of the \$1.3 million identified by the OLA that is associated with funds paid by Maryland State entities) would be superfluous given that the Foundation is regularly transferring much higher amounts to MPBC (i.e., \$7.5 million during the audit period) to support the operations and productions of MPBC.</p> <p>MPBC agrees to prospectively (a) discontinue the transfer of funds from MPBC to the Foundation in connection with MOUs; and (b) restructure the underwriting arrangements with Maryland State entities such that funds from these Maryland State entities are paid directly to MPBC.</p>
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**Auditor's Comment:** MPBC disagrees with our recommendation stating that there is no reason for the affiliated foundation to transfer the funds identified in the analysis back to MPBC because the affiliated foundation is regularly transferring much higher amounts to MPBC. However, as explained in the finding, the amounts identified are State funds that should not have been diverted to the affiliated foundation, and accordingly should be returned to MPBC for deposit into a State controlled account.



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**Procurements and Disbursements**

**Finding 3**  
MPBC continued to use the services of a vendor for several years after the related contract had expired and did not adequately ensure amounts invoiced were proper.

**Recommendation 3**

We recommend that MPBC

- a. procure a new contract for premium gifts and discontinue the practice of paying a vendor after a contract has been expired and
- b. ensure, at least on a test basis, that it compares the number of premium gifts billed by the vendor with its record of premium gifts ordered by donors.

Agency Response			
<b>Analysis</b>	<b>Factually Accurate</b>		
Please explain any concerns with factual accuracy.			
<b>Recommendation 3a</b>	Agree	<b>Estimated Completion Date:</b>	Complete
Please provide details of corrective action or explain disagreement.	<p>MPBC entered into a new contract for premium gifts with the vendor in February 2024. MPBC provided OLA with a copy of this contract during the OLA audit process.</p> <p>Effective July 1, 2024, MPBC also implemented a quarterly review of all contracts set to expire. This review will allow MPBC to forecast the need for new procurements or contract modifications/amendments to extend contract end dates, as appropriate under Maryland procurement law, in cases where MPBC continues to require the goods and services provided under such contracts.</p>		
<b>Recommendation 3b</b>	Agree	<b>Estimated Completion Date:</b>	Complete
Please provide details of corrective action or explain disagreement.	<p>The contracts between MPBC and the vendor require it to submit invoices to MPBC that reflect, among other things, the amount invoiced and the basis for the billing. Effective July 1, 2024, MPBC instituted a process for testing the premium gifts billed by the vendor with MPBC's record of premiums gifts ordered by donors.</p>		

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**Finding 4**  
MPBC did not always comply with State procurement regulations for its non-exempt procurements and intergovernmental cooperative purchasing agreements including documenting bid openings and publishing contract awards on *eMaryland Marketplace Advantage*.

**Recommendation 4**

We recommend that MPBC comply with State procurement regulations and the *Maryland Procurement Manual* for its non-exempt procurements and ICPAs. Specifically, we recommend that MPBC

- a. document bid openings by at least two employees; and
- b. publish contract awards on *eMMA* as required (repeat).

Agency Response			
<b>Analysis</b>	<b>Factually Accurate</b>		
Please explain any concerns with factual accuracy.			
<b>Recommendation 4a</b>	Agree	<b>Estimated Completion Date:</b>	Complete
Please provide details of corrective action or explain disagreement.	Effective July 1, 2024, MPBC implemented a process pursuant to which two State employees are present at bid openings. These employees are tasked with witnessing bid proposal openings. MPBC staff will create an automated calendar invite for each procurement bid opening and ensure that at least two (2) State employees are included on the calendar invite. A bid tab form will then be generated, reviewed, and signed by both State employees present at the bid opening in order to accurately document results, time and date of the bid opening. The bid tab will be scanned and be retained in the procurement file.		
<b>Recommendation 4b</b>	Agree	<b>Estimated Completion Date:</b>	Complete
Please provide details of corrective action or explain disagreement.	MPBC's procurement office will publish contract awards on <i>eMMA</i> as required by the Maryland Procurement Delegation of Authority. To accomplish this, effective July 1, 2024, MPBC created a new procurement file checklist that includes a field that documents the posting of the award in <i>eMMA</i> . This checklist is to be completed by the date when the Notice to Proceed authorization is issued.		

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**Corporate Purchasing Card**

**Finding 5**  
 Supervisory reviews of corporate purchasing card (CPC) activity logs were not always documented and did not use available Level-3 data to help ensure the propriety of the purchases, as required.

**Recommendation 5**

We recommend that MPBC comply with the *Manual* by

- a. performing a documented independent supervisory review for the propriety of all CPC purchases, and
- b. ensuring supervisors use available Level-3 data as a part of the monthly review to aid in the assessment of the propriety of purchases and payments.

Agency Response			
<b>Analysis</b>	<b>Factually Accurate</b>		
Please explain any concerns with factual accuracy.			
<b>Recommendation 5a</b>	Agree	<b>Estimated Completion Date:</b>	Complete
Please provide details of corrective action or explain disagreement.	Effective July 1, 2024, MPBC implemented a procedure to document independent review of all CPC purchases.		
<b>Recommendation 5b</b>	Agree	<b>Estimated Completion Date:</b>	Complete
Please provide details of corrective action or explain disagreement.	Effective July 1, 2024, MPBC uses the Level-3 data as part of the monthly review to aid in the assessment of proprietary purchases and payments.		

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**Cash Receipts**

**Finding 6**  
**MPBC had not segregated the duties of cash receipts and maintaining accounts receivable records, as required.**

**Recommendation 6**  
**We recommend that MPBC properly segregate the duties of processing cash receipts and maintaining accounts receivable records.**

<b>Agency Response</b>			
<b>Analysis</b>	<b>Factually Accurate</b>		
Please explain any concerns with factual accuracy.			
<b>Recommendation 6</b>	Agree	<b>Estimated Completion Date:</b>	Complete
Please provide details of corrective action or explain disagreement.	MPBC will comply with this recommendation to the extent that it is able to maintain adequate staff levels to facilitate the segregation of duties.		

AUDIT TEAM

**Bekana Edossa, CPA, CFE**  
Audit Manager

**Anthony V. Calcagno**  
Senior Auditor

**Tari J. Covington**  
Staff Auditor