

# Audit Report

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## **Maryland Agricultural Land Preservation Fund**

Fiscal Year Ended June 30, 2007

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

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Karl S. Aro  
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

Bruce A. Myers, CPA  
Legislative Auditor

September 4, 2008

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

Ladies and Gentlemen:

We have audited the Maryland Agricultural Land Preservation Fund (Fund) for the fiscal year ended June 30, 2007. The Fund was established to preserve productive agricultural land and is primarily funded by State and agricultural transfer taxes and local subdivision matching funds. The Fund is administered by the Maryland Agricultural Land Preservation Foundation (MALPF).

Our audit disclosed that MALPF lacked a comprehensive cumulative listing of all easement acquisitions and needed to establish a process to ensure the accuracy of easement purchase prices and related payments. We also noted that MALPF was not effectively monitoring local land preservation programs and activities to ensure that all appropriate taxes were remitted to the Fund.

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

Respectfully submitted,

Bruce A. Myers, CPA  
Legislative Auditor



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



## **Executive Summary**

### **Legislative Audit Report on the Maryland Agricultural Land Preservation Fund September 2008**

- **A comprehensive listing of all easement acquisitions was not maintained to ensure all easements were properly accounted for, and significant discrepancies existed between the cost of easement acquisitions reported in the Maryland Agricultural Land Preservation Foundation (MALPF) 2008 Annual Report to the General Assembly and the related amount reported on the State's accounting records.**

MALPF should maintain a comprehensive, accurate listing of all easement acquisitions and ensure consistent reporting of such activity.

- **Supervisory reviews of certain critical calculations used in determining the easement purchase price and for ensuring the propriety of certain easement payments were either not being done or were not documented. In addition, there were no procedures for ensuring counties were invoiced for their share of the easement acquisition costs.**

MALPF should ensure that critical calculations be reviewed by an independent employee and that such reviews be documented. In addition, MALPF should establish procedures to ensure that counties are properly invoiced.

- **County agricultural land preservation programs were not properly certified, resulting in certain counties retaining a higher share of transfer taxes.**

MALPF should properly certify county agricultural land preservation programs and determine the legality of recovering any amounts deemed to be inappropriately retained by the non-certified counties.

- **MALPF did not ensure that counties properly used agricultural land transfer taxes that had been retained by the counties in accordance with State laws and regulations, and did not ensure that counties remitted the required amount of unused transfer taxes to the State.**

MALPF should obtain and review annual reports and related audited financial statements to ensure that counties are using the transfer taxes in accordance with State law and are remitting all required amounts to the State.

- **Easement inspections were not performed in accordance with federal grant agreements or MALPF's policy to ensure that landowners were in compliance with the provisions stipulated in the easement agreements.**

MALPF should establish procedures to ensure that all easement properties are periodically subject to inspection, and establish procedures to ensure appropriate follow-up action when counties fail to conduct required inspections.



## **Background Information**

### **Agency Responsibilities**

The Maryland Agricultural Land Preservation Foundation (MALPF) was established to preserve productive agricultural land and woodland in Maryland. MALPF, which is governed by a Board of Trustees consisting of 12 members, purchases land easements with Maryland Agricultural Land Preservation Fund (Fund) revenue and places certain restrictions on the use of the land (for example, the land cannot be subdivided for residential or commercial purposes). The Fund, which is administered by the MALPF, generally derives revenues from State transfer taxes, agricultural transfer taxes, local subdivision matching funds, and federal grants. According to MALPF records since inception, as of June 30, 2007, MALPF had purchased 1,941 easements on 266,000 acres of land for a total cost of \$490 million, which includes local and federal contributions.

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

Our audit included a review to determine the status of the three findings contained in our preceding audit report dated March 20, 2007. We determined that MALPF had satisfactorily resolved one of these findings; the other two findings are repeated in this report.

### **Financial Information**

Attached, as Exhibit A, is a schedule of the financial activity of the Fund for the fiscal year ended June 30, 2007. This schedule is not intended to and does not provide the financial position and results of operations in accordance with generally accepted accounting principles. Specifically, certain financial statements and disclosures (such as balance sheet, summary of significant accounting policies) have not been provided as would be required by generally accepted accounting principles. The schedule was prepared on a modified accrual basis of accounting which provides that revenues are recognized when they become available and measurable, and expenditures are recognized when the related liability is incurred.

The \$31,889,041 fund balance in the Special Revenue Fund as of June 30, 2007 represents funds available to finance future expenditures, including easement acquisitions. The \$5,758,121 fund balance in the Trust Fund as of June 30, 2007 represents funds committed for the payment of easements purchased on an installment basis.

## **Fund Status**

MALPF recorded approximately \$91 million in encumbrances at the end of fiscal year 2007, which generally equates to the value of outstanding easement offers and was consistent with the remaining budgetary appropriations from 2007 and prior fiscal years. However, MALPF only had approximately \$34 million to be used for these obligations. The \$57 million shortage was caused, in part, by the attainment of less than budgeted revenue. Specifically, the actual revenue realized by MALPF for fiscal year 2007 was approximately \$45 million less than the estimated revenue of \$85 million appropriated for easements and used to make offers for that year. The revenue shortfall was also affected by certain limitations on federal funding that MALPF has experienced since late 2005, which were addressed in the Department of Legislative Services' Analyses of the Maryland Executive Budget for fiscal years 2008 and 2009.

State law governing the Fund recognizes that estimated revenues may not be realized and provides for adjustments in future years or the eventual de-authorization of projects previously authorized.

## Findings and Recommendations

### Easement Acquisitions

#### **Finding 1**

**A comprehensive listing of all easement acquisitions was not maintained to ensure the easements were properly accounted for and reported.**

#### **Analysis**

The Maryland Agricultural Land Preservation Foundation (MALPF) did not maintain a comprehensive listing or database of all easements purchased, with such detailed information as the number of acres covered by the easement and the related purchase price. Consequently, MALPF was unable to support the dollar value of easements purchased as reported to the General Assembly in its Annual Report submitted in February 2008 or recorded in the State's accounting records. MALPF management acknowledged the limitations of the current easement database, but advised us that a new database had recently been developed and was in the process of being manually updated with the detailed easement information from the inception of the Maryland Agricultural Land Preservation Fund to date. However, as of March 18, 2008, MALPF had not entered all the information into the new database and was unable to provide us with a comprehensive listing of easements with relevant detailed information.

In addition to a lack of underlying data to support the total cumulative cost of easement acquisitions reported in the MALPF Annual Report to the General Assembly (\$490 million), we also noted that the reported amount exceeded the amount recorded on the State's accounting records (\$337 million) by \$153 million. Although, approximately \$91 million of this difference could be attributable to outstanding offers made during fiscal year 2007 that had not been capitalized on the State's accounting system (since this usually occurs once the payment is made), the remaining \$62 million difference could not be readily explained by MALPF management.

#### **Recommendation 1**

**We recommend that, in the future, MALPF maintain a comprehensive database of all easement acquisitions and that this information be accurately reported in its Annual Reports and reconciled to the State's accounting records. We also recommend that MALPF investigate the aforementioned discrepancy and take appropriate corrective action.**

**Finding 2**

**Procedures and controls over easement acquisitions and for billing counties for their share of the easement costs were inadequate.**

**Analysis**

MALPF lacked adequate procedures and controls over easement acquisitions, which totaled approximately \$35 million during fiscal year 2007. Specifically, the independent review and approval of certain critical calculations was not documented. One employee was responsible for determining the Agricultural Land Value (ALV) of properties being considered for easement purchases. Since the ALV is subtracted from the appraised value of the land to determine the acquisition cost, undetected errors could result in erroneous easement acquisitions payments. Although MALPF management advised us that the calculations were reviewed by an independent employee, this review was not documented.

Furthermore, MALPF lacked adequate procedures for ensuring that the counties were invoiced for their share of easement acquisitions costs. We reviewed all easement acquisitions that were to be fully or partially reimbursed with county funds during fiscal year 2007 and identified one county that was not invoiced \$390,000 for its share of an easement acquisition. The failure to bill the county was not detected by MALPF because there was no procedure to ensure all such acquisitions were matched to billing records. According to MALPF records, county funds used for easement acquisitions during fiscal year 2007 totaled approximately \$13.1 million.

**Recommendation 2**

**We recommend that critical calculations be reviewed by an independent employee and that such reviews be documented. In addition, we recommend that MALPF establish procedures to ensure that all amounts due from the counties for easements are properly invoiced, including the aforementioned \$390,000.**

## County Agricultural Land Transfer Taxes

### **Finding 3**

**County agricultural land preservation programs were not properly certified resulting in certain counties retaining a higher share of transfer taxes.**

### **Analysis**

The certification process for county agricultural land preservation programs was inadequate. Our test of all 17 county programs that were deemed certified by MALPF through June 30, 2007 disclosed that the two-year certifications for 6 counties had actually expired prior to fiscal year 2007. As was pointed out in our preceding audit report, for one of these counties, the certification had expired in 1999. Eight other county programs were certified even though they had not submitted their recertification requests in a timely manner and the recertification had not been approved until after the previous certification had expired. As a result, the certification periods were retroactively applied for between 5 and 12 months, even though such retroactive approval was not provided for in State regulations. Under State regulations, a county that lacks a properly certified program may only retain 33 percent of its agricultural land transfer tax revenues instead of the 75 percent retained by a certified county. According to MALPF records, transfer tax revenue remitted to the State by the aforementioned six non-certified counties totaled approximately \$750,000 during fiscal year 2007. However, if the counties had been treated as non-certified and remitted transfer taxes at the higher percentage, these six counties would have remitted approximately \$2 million to the State during fiscal year 2007.

State laws and regulations specify that MALPF and the Maryland Department of Planning are jointly responsible for certifying and recertifying county agricultural land preservation programs. Counties are certified for a two-year period and must submit a request for recertification in October of the year preceding their certification expiration (for example, in October 2006 for certifications expiring in June 2007) in order to maintain continuous certification status. Similar conditions were noted in our preceding audit report.

### **Recommendation 3**

**We again recommend that MALPF establish a process to timely monitor the certification status of the county agricultural land preservation programs and to ensure that agricultural land transfer taxes remitted are consistent with the certification status. We also again recommend that MALPF determine the legality of recovering any agricultural land transfer taxes retained by counties whose agricultural land preservation programs' certifications had expired.**

**Finding 4**

**MALPF did not ensure that counties properly used their share of agricultural land transfer taxes or remitted the unused funds to the State as required.**

**Analysis**

MALPF did not have a process to annually monitor the use of agricultural land transfer taxes to ensure that counties properly used their share of transfer taxes or remitted the unused funds to the State as required. All counties are required by State regulations to submit annual reports that are to include information regarding the transfer taxes collected by the county, the nature of the counties' use of the taxes, and whether any unexpended taxes were due to the State. However, as of May 2008, MALPF did not receive annual reports for fiscal year 2006 (due in October 2006) from 9 of the 17 counties tested. Furthermore, the reports that were received were not always prepared in accordance with State regulations. For example, 2 of the 8 annual reports that were received were not signed by the Chief Financial Officer or the independent auditor as required by State regulations. Although, we were advised by MALPF management that this information may be included in a county's annual audited financial statements, these statements were not obtained and/or reviewed to determine whether counties remitted all amounts due to the State.

State law provides that each county shall remit the transfer taxes attributable to instruments of writing that transfer title to parcels of wooded land and a percentage of any remaining agricultural land transfer taxes to the State, most of which is subsequently credited to the Fund. The remaining transfer tax revenue is to be used by the counties for land preservation (for example, to purchase development rights) and any taxes not expended or committed on or before three years from the original date of receipt, shall be remitted to the State for deposit into the Fund. According to the State's accounting records, agricultural land transfer taxes remitted to the State during fiscal year 2007 totaled \$4.5 million.

**Recommendation 4**

**We recommend that MALPF establish a procedure to obtain and review the required annual reports and the related audited financial statements to monitor the use of transfer taxes in accordance with State law and the remission of amounts due to the State. We also recommend that MALPF review the counties' usage of agricultural transfer tax during prior years, determine if the taxes were used for purposes provided for by law, and recoup any taxes due to the State or improperly used.**

## Easement Inspections

### **Finding 5**

**MALPF lacked procedures for ensuring required annual inspections of easement properties were performed.**

### **Analysis**

MALPF lacked procedures for ensuring inspections of easement properties were performed as required. In 1983, the MALPF Board of Trustees directed MALPF to establish a policy for the inspection of easement properties. Consequently, MALPF established a policy requiring the counties to perform annual inspections of 10 percent of the easement properties acquired with State and local funds, and annual inspections of all easement properties purchased with federal grant funds.<sup>1</sup> However, MALPF had not established a process to ensure inspections were performed by the counties as required. In addition, MALPF had not established a follow-up policy when a county did not perform the required inspections.

For example, our review of calendar year 2006 inspection reports found that MALPF had not received 97 of the 173 reports required for easements acquired with State and local funds.<sup>2</sup> Furthermore, MALPF had not followed up with any of the counties delinquent in submitting the inspections. As a result, there was a lack of assurance that landowners were in compliance with the provisions stipulated in the easement agreements. The failure to obtain the required inspections has been commented upon in our five preceding audit reports dating back to June 3, 2003.

### **Recommendation 5**

**We again recommend that MALPF take appropriate action to ensure that easement inspections are performed as required, including establishing a process to account for all required annual inspections and to take appropriate follow-up action when counties fail to provide the inspections as required.**

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<sup>1</sup>The MALPF grant agreement with the federal government requires annual inspections of all easement properties acquired with federal grant funds.

<sup>2</sup>The number of required reports is based on 10 percent of the easements reported in the most recent MALPF Annual Report.





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

We audited the Maryland Agricultural Land Preservation Fund (Fund) for the fiscal year ended June 30, 2007. 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 the Fund's financial transactions, records and internal controls, and to evaluate its compliance with applicable State laws, rules, and regulations. We audit the Fund annually as required by the Agriculture Article, Section 2-505 of the Code. We also determined the status of the findings contained in our preceding audit report.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Fund's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

Our audit did not include certain support services provided to the Fund by the Department of Agriculture. These support services (such as purchasing, data processing, maintenance of accounting records, and related fiscal functions) are included within the scope of our audit of the Department.

Maryland Agricultural Land Preservation Foundation 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 the safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate. Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the Fund'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 the Fund that did not warrant inclusion in this report.

The Department of Agriculture's response, on behalf of the Foundation, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Department regarding the results of our review of its response.

# Exhibit A

## MARYLAND AGRICULTURAL LAND PRESERVATION FUND

### SCHEDULE OF FINANCIAL ACTIVITY FISCAL YEAR ENDED JUNE 30, 2007

	Governmental Fund Type Special Revenue	Fiduciary Fund Types Trust	Total (Memorandum Only)
REVENUES:			
State property transfer taxes	\$ 21,535,476		\$ 21,535,476
Local subdivision matching funds for easement purchases	13,056,952		13,056,952
Agricultural transfer taxes	4,557,570		4,557,570
Interest earnings on funds reserved for installment purchases		\$ 206,783	206,783
Sale of land included in prior easement acquisitions	55,655		55,655
Other Non-recurring receipts	16,917		16,917
Total Revenues	39,222,570	206,783	39,429,353
EXPENDITURES:			
Easement acquisitions	35,230,959		35,230,959
Tri-County Council Program	2,415,000	(1)	2,415,000
Administration	956,202		956,202
Land appraisal, legal, and settlement fees	670,366		670,366
Total Expenditures	39,272,527		39,272,527
EXCESS OF REVENUES OVER EXPENDITURES:	(49,957)	206,783	156,826
OTHER SOURCES (USES) OF FINANCIAL RESOURCES:			
Transfers in from Special Revenue Fund for easement acquisitions purchased on installment basis		2,338,174	2,338,174
Payments made on easement acquisitions purchased on an installment basis		(2,260,427)	(2,260,427)
Net Other Sources (Uses) of Financial Resources	-	77,747	77,747
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES AND NET OTHER SOURCES (USES) OF FINANCIAL RESOURCES	(49,957)	284,530	234,573
FUND BALANCES, July 1, 2006	31,938,998	5,473,591	37,412,589
FUND BALANCES, June 30, 2007	\$ 31,889,041	(2) \$ 5,758,121	\$ 37,647,162

(1) Tri-County Council Program - MALPF provided funding to the Tri-County Council Program as a result of budget bill language of the 2006 session. The Tri-County Council Program provides grants to counties to fund land preservation efforts.

(2) The Special Revenue Fund Balance is reserved for easement acquisition offers that were approved by the MALPF Board of Trustees, but were not presented to the landowners as well as offers accepted by the landowners that were awaiting Board of Public Works approval or settlement at year end.



# Maryland Department of Agriculture

## APPENDIX

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### Office of the Secretary

**Martin O'Malley**, Governor  
**Anthony G. Brown**, Lt. Governor  
**Roger L. Richardson**, Secretary  
**Earl F. Hance**, Deputy Secretary

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August 29, 2008

Mr. Bruce A. Myers, CPA  
Legislative Auditor  
Office of Legislative Audits  
State Office Building  
301 West Preston Street  
Baltimore, MD 21201

Re: Audit of the Maryland Agricultural Land Preservation Foundation -- Maryland Department of Agriculture (period of audit: July 1, 2006-June 30, 2007)

Dear Mr. Myers:

I have enclosed the Maryland Department of Agriculture's responses to your draft report covering the examination of the accounts and records of the Maryland Agricultural Land Preservation Foundation. Our comments refer to the individual items contained in the report.

Sincerely,

Roger Richardson  
Secretary

Enclosure

cc: Dan Colhoun, Chair, Maryland Agricultural Land Preservation Foundation  
Earl "Buddy" Hance, Deputy Secretary, Maryland Dept. of Agriculture  
Douglas Wilson, Director, Administrative Services, Maryland Dept. of Agriculture  
Joseph D. Lilly, Fiscal Administrator, Maryland Dept. of Agriculture  
James Conrad, Executive Director, Maryland Agricultural Land Preservation Foundation  
Darrin Aycock, Department of Budget and Management

07MALPFAuditTransmittal

**RESPONSE TO THE LEGISLATIVE AUDIT REPORT  
MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION  
MARYLAND DEPARTMENT OF AGRICULTURE  
July 1, 2006 to June 30, 2007**

**Easement Acquisitions**

**Finding #1**

A comprehensive listing of all easement acquisitions was not maintained to ensure the easements were properly accounted for and reported.

**Recommendation #1**

**We recommend that, in the future, MALPF maintain a comprehensive database of all easement acquisitions and that this information be accurately reported in its Annual Reports and reconciled to the State's accounting records. We also recommend that MALPF investigate the aforementioned discrepancy and take appropriate corrective action.**

**Response #1**

**MDA and MALPF concurs.** MALPF is in the process of creating a new, comprehensive database of all easement acquisitions that will allow timely and accurate reporting and a verifiable baseline for reconciling the State's accounting records. Once completed, MALPF will then be able to investigate the discrepancy with the State's accounting records. MDA has recently extended the contract of the staff we hired this summer to enter data from easement files. MALPF expects the initial data entry and verification task to be completed by December 31, 2008

Explanation: MALPF has traditionally relied primarily on its written records and, secondarily, on an outdated, inaccurate, and incomplete database with limited number of data fields. MALPF has undertaken a fundamental revision of its database so it can be the preeminent source of accurate up-to-date information for reporting and policy-making. Given the scope of this task and the discontinuation of support for the old database (creating a lacuna for quick data accessibility, though all of the data remains accessible in written form in the files), providing accurate and verifiable historical data from the beginning of the Program is not yet possible. Data records back to FY 1996 have been completed, including entry of new data and verification of existing data for completeness and accuracy from the files. Once all of the records in new database are complete and verified, accurate reporting will be available based on relevant criteria for any historical point or time period. The historical data will be recalculated and published in the Annual Report and at the website once complete and accurate data are available. Whether or not that data will be reconcilable to the figures recorded on the State's accounting records can only be analyzed after the database has been completely populated and the records verified. Corrective action appropriate to resolve any reporting discrepancies will be taken at that time.

Finding #2

Procedures and controls over easement acquisitions and for billing counties for their share of the easement costs were inadequate.

**Recommendation #2**

**We recommend that critical calculations be reviewed by an independent employee and that such reviews be documented. In addition, we recommend that MALPF establish procedures to ensure that all amounts due from the counties for easements are properly invoiced, including the aforementioned \$390,000.**

**Response #2**

**MDA and MALPF concurs:** As recommended, MALPF is developing, with the administrators responsible for calculating agricultural value and certain other values, a methodology for independent review and verification of work. This review will be based on a formal procedure of random sampling of such calculations and will require a formal "sign-off" by the person performing the independent verification

In addition, the Executive Director will be developing a procedure to ensure acquisitions are matched to billing records when county and federal funds are involved in an easement transaction. There will be a coordinated effort between the staff preparing the billing documents and the MALPF administrators responsible for that county to ensure billings for these non state funds are sent and funds received at the appropriate time after settlements.

Explanation: MALPF notes that the legislative auditors did not identify any errors in the calculation of agricultural land values, but were concerned with a formal "sign-off" procedure that established a paper trail of responsibility. Calculations have always been reviewed by an independent employee, but an official "sign-off" procedure was never part of the process. We would offer that the Executive Director always verifies the numbers making up an offer before offer letters and option contracts are sent to landowners. His signature on the letter was considered our documentation that that verification has taken place.

## County Agricultural Land Transfer Taxes

### Finding #3

County agricultural land preservation programs were not properly certified resulting in certain counties retaining a higher share of transfer taxes.

### Recommendation #3

**We again recommend that MALPF establish a process to timely monitor the certification status of the county agricultural land preservation programs and to ensure that agricultural land transfer taxes remitted are consistent with certification status. We also again recommend that MALPF determine the legality of recovering any agricultural land transfer taxes retained by counties whose agricultural land preservation programs' certifications had expired.**

### Response #3

**MDA and MALPF concurs.** This finding and recommendation are based on the gap between the way the certification program is administered today and existing regulations which were developed many years ago. The certification program has been operated in a manner that is more flexible than regulations in effect during this audit period would allow. In response to this finding and recommendation, the Maryland Department of Planning has updated the applicable regulations both to take into account changes in the statute applying to certification – HB 2 (Agricultural Stewardship Act of 2006) and HB 1354 (2007) – and to bring the regulations in line with how the certification program actually operates. These regulations have been posted to the *Maryland Register* (COMAR 14.24.8.00-.9999) and are expected to go into effect presently.

### Finding #4

MALPF did not ensure that counties properly used their share of agricultural land transfer taxes or remitted the unused funds to the State as required.

### Recommendation #4

**We recommend that MALPF establish a procedure to obtain and review the required annual reports and the related audited financial statements to monitor the use of transfer taxes in accordance with State law and the remission of amounts due to the State. We also recommend that MALPF review the counties' usage of agricultural transfer tax during prior years, determine if the taxes were used for purposes provided for by law, and recoup any taxes due to the State or improperly used.**

### Response #4

**MDA and MALPF concurs.** MALPF will explore procedures to obtain and review the required annual reports and related audited financial statements of certified counties as part of the certification review. With new legislation that has increased the amount of and the funding distribution of the agricultural transfer tax, MALPF and MDA have recently met with the Office of the Comptroller to review new forms for counties to use

in reporting collections of the agricultural transfer tax. MALPF will also explore with the Maryland Department of Planning (MDP) incorporating the delivery and review of the annual reports and audited statements as part of the recertification review. A supplemental procedure will need to be developed cooperatively with MDP to address the timely review of annual reports and audit statements of certified counties under the new statutory and regulatory requirements. Further, as MALPF staff does not have the necessary expertise to review audits and financial statements of certified counties, the issue will be further reviewed within MDA to establish responsibilities and the availability of staff resources to ensure that the reviews of certified counties' audited financial statements are completed in a timely manner. Finally, MALPF notes that the auditors did not identify any improper expenditure of agricultural land transfer taxes by certified counties, but were simply concerned that a clear procedure is in place to monitor compliance.

MDA and MALPF will also confer with legal counsel to determine if we are required to recoup any agricultural transfer taxes from counties with delayed certification.

**Finding #5**

MALPF lacks procedures for ensuring required annual inspections of easement properties was performed.

**Recommendation #5**

**We again recommend that MALPF take appropriate action to ensure that easement inspections are performed as required, including establishing a process to account for all required annual inspections and to take appropriate follow-up action when counties fail to provide the inspections as required.**

**Response #5**

**MDA concurs.** MALPF has now been provided with a new state position and as of October 7, 2007, has secured a full-time permanent employee, Kim Hoxter, devoted to establishing a process to account for all required annual inspections and to take appropriate follow-up action when counties fail to provide the inspections as required. Ms. Hoxter has been very active working with counties to bring their easement inspections up-to-date and is developing a formal set of procedures to make Board recommendations on future monitoring and inspections policies in a report due to the Board of Trustees on December 31, 2008.



AUDIT TEAM

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Senior Auditor

**Catherine M. Clarke**  
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