



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued November 18, 2014

Department of Public Safety

For the period July 1, 2010 through June 30, 2012





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Office of the State Auditor
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Making government work better

November 18, 2014

Thomas G. Gatzunis, Commissioner
Department of Public Safety
One Ashburton Place
Thirteenth Floor, Room 1301
Boston, MA 02108

Dear Commissioner Gatzunis:

I am pleased to provide this performance audit of the Department of Public Safety. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2010 through June 30, 2012. My audit staff discussed the contents of this report with management of the department, and their comments are reflected in this report.

I would also like to express my appreciation to the Department of Public Safety for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SMBump'.

Suzanne M. Bump
Auditor of the Commonwealth

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EXECUTIVE SUMMARY

The Department of Public Safety (DPS), established under Chapter 22, Section 1, of the Massachusetts General Laws, is a regulatory, inspection, and licensing agency within the Executive Office of Public Safety and Security and operates under the direction and control of the Commissioner of Public Safety. DPS comprises the Division of Inspection, which includes the Elevator Division, Architectural Access Board, Building Division, and Engineering Division; the State Athletic Commission; the Special Licensing Unit; the Board of Building Regulations and Standards; the Board of Boiler Rules; the Bureau of Pipefitters, Refrigeration Technicians, and Sprinkler Fitters; the Board of Elevator Regulations; the Board of Elevator Appeals; and the Recreational Tramway Board. In addition to its main office in Boston, DPS has three district offices in Springfield, Taunton, and Tewksbury. For fiscal years 2011 and 2012, DPS revenue was \$21,158,189 and \$25,643,186 respectively. Expenditures for the same period were \$9,563,708 for fiscal year 2011 and \$10,214,066 for fiscal year 2012.

This audit focused on certain aspects of DPS's elevator, amusement device, and ticket reseller operations. This audit was conducted as part of the Office of the State Auditor's continuing efforts to assess the operation of state agencies and determine whether there are opportunities for improving state government.

Summary of Findings

- Since our previous audit, DPS still has not implemented adequate internal controls to ensure that elevators are inspected in accordance with Chapter 143, Section 64, of the General Laws. Our analysis of the DPS database as of October 10, 2012 indicated that 14,211 (36%) of the 39,461 registered elevators in the Commonwealth were operating with expired inspection certificates (a possible threat to public safety).
- In addition to the public safety risk posed by allowing elevators to operate without being inspected for extended periods, DPS is potentially forgoing the collection of a significant amount of revenue due the Commonwealth by not performing the required inspections on time.
- The elevator inspection information that DPS maintains in its database is not up to date, complete, and reliable, and as a result, elevator compliance reports generated from information in DPS's database and submitted periodically to the Legislature may not be accurate.
- Our prior audit found that DPS was not in compliance with Office of the State Comptroller (OSC) and Operational Services Division (OSD) requirements for the accounting, recording, reporting, and reconciling of its fixed assets or for disposing of items deemed to be surplus and

that as a result, it could not be certain that these assets were being adequately safeguarded against abuse or misuse. Our current audit found that DPS had not developed inventory control policies and procedures and did not maintain a complete and accurate inventory list of its fixed assets.

- Our prior audit found that DPS did not have a complete and updated internal control plan (ICP), contrary to Chapter 647 of the Acts of 1989 and to OSC requirements. The absence of a complete and comprehensive ICP places DPS at risk of not achieving all its objectives. Our current audit found that DPS's ICP does not address programmatic activities, is not based on a department-wide risk assessment, and has not been updated to include and identify all eight components of enterprise risk management (ERM). In addition, the Internal Control Questionnaires (ICQs) that DPS submitted to OSC during fiscal years 2011 and 2012 were inaccurate.
- DPS does not conduct reviews of amusement device operator records to ensure that amusement device owners are conducting Criminal Offender Record Information (CORI) checks on all employees for whom they are required. In addition, improvements are needed regarding the verification of required training for operators of amusement devices. Without procedures and effective controls to verify CORI data and training records, DPS does not have adequate assurance that amusement device owners are complying with all applicable regulations that are designed to ensure the safe operation of the devices. Additionally, during our walkthrough at the fair site we visited, we saw four amusement ride operators not wearing the required operator certifications (ID badges).
- DPS could not substantiate that it was maintaining required documentation for all elevator mechanics, amusement device certified maintenance mechanics (CMMs), and certified inspectors (CIs). Specifically, DPS could not provide documentation for 5 of our sample of 36 CMMs and CIs that it had licensed in these areas. Further, 19 of 24 sampled elevator mechanics did not have supporting documentation for their original and renewal elevator mechanic license applications. As a result, DPS cannot document that these personnel met all requirements for work experience, education, and testing and that all licenses were issued in accordance with the applicable laws and regulations. In addition, critical supporting documentation that serves as the basis for issuing licenses was not indexed, making it difficult, if not impossible, to retrieve specific supporting documentation.
- DPS does not have adequate internal controls in place to ensure that applicants for ticket reseller licenses submit applications in accordance with 520 Code of Massachusetts Regulations (CMR) 8.01. In addition, DPS does not always follow its policies for ticket reseller applicants who have CORI offenses. Bypassing the CORI administrative policy can allow applicants with criminal records to be licensed by DPS without the proper justification.
- DPS does not regularly monitor and investigate the activities of ticket resellers to ascertain whether they are operating in compliance with applicable laws, rules, and regulations and the terms and conditions of their licenses. As a result, DPS cannot assure the public that ticket prices charged by resellers are fair and appropriate.

- For fiscal years 2011 and 2012, DPS's revenue records did not agree with revenue amounts it recorded in the Massachusetts Management Accounting and Reporting System (MMARS). Inconsistency and possible errors in recording cash receipts in the DPS databases create an opportunity for errors or misuse of funds to go undetected for multiple years and have a material impact on the accuracy of revenue being reported in MMARS.

Recommendations

- DPS should develop a comprehensive, documented set of policies and procedures to strengthen internal controls over the elevator inspection process to ensure the timely inspection of all elevators in the Commonwealth.
- DPS should establish and implement the necessary internal controls to ensure that elevator owners are notified within 90 days before their certificates expire as prescribed by management. Where appropriate, if an elevator's inspection certificate has expired and its owner has not applied and paid for an annual elevator inspection, DPS should shut down the elevator and post placards indicating the reason.
- DPS should strengthen internal controls over the generation of the Elevator Division Inspectional Quarterly Report to ensure that complete, accurate, and up-to-date information regarding the elevator inspection compliance rate is submitted to the Legislature.
- DPS should continue to perform an annual analysis of how many inspectors it will need to ensure compliance with Chapter 143 of the General Laws and seek to obtain this staffing level.
- DPS, in conjunction with the state's Office of Technology and Information Services, should develop policies and procedures to ensure that a complete, accurate, and perpetual inventory of computer-related items is maintained. In addition, the inventory record should be reconciled annually to conform to OSC requirements.
- DPS should update its ICP, beginning with the documentation of a department-wide risk assessment. Based on this assessment, DPS should then develop and implement internal controls to mitigate all identified risks. Further, DPS should ensure that its ICP is updated to incorporate the eight components of ERM and that its internal control system is evaluated and necessary changes are implemented at least annually or when conditions warrant. Finally, DPS should ensure that the ICQs it submits to OSC each year are accurate.
- DPS should regularly review amusement ride owner operations to ensure that they are complying with the requirement that criminal background record checks be performed on all employees for whom they are required.
- DPS should increase its monitoring to ensure that training for amusement device operators is being conducted and recorded and that all licenses, permits, and certifications are displayed in accordance with 520 CMR 5.00.

- DPS should implement procedures for the scanning, indexing, and retention of supporting documentation for all licenses that are issued. Further, documents supporting DPS's decision on whether to issue a license should be retained and retrievable.
- DPS should include a verification form or checklist in the file for each license issued in order to verify that all of the required paperwork has been submitted, reviewed, retained, and indexed.
- DPS should establish procedures for supervisory reviews of applicant files before the issuance of a license. We believe that this action will improve the quality of information retained and strengthen the recordkeeping process.
- DPS should ensure that all licensed ticket resellers comply with all applicable laws and regulations and should also establish formal policies and procedures and associated internal controls for the licensing and oversight of these entities.
- In an effort to ensure that tickets are being resold at fair and reasonable prices, DPS should perform site visits to resellers to review their books and records as set forth under Chapter 140, Section 185E, of the General Laws.
- DPS should perform an immediate reconciliation of its fiscal year 2011 cash receipts to MMARS to determine that all revenue was collected and reported to the Commonwealth.
- DPS should reconfigure its internal daily reconciliation of cash receipt balances to include a ledger for non-automated revenue receipts (i.e., walk-in and mail-in payments) and maintain a detailed list of refunds and bad checks in order to track adjustments to individual accounts.
- DPS should remit cash receipts (transactions) to MMARS in a timely manner. DPS should complete cash receipt transactions daily to help facilitate the reconciliation process.
- DPS should strengthen its internal controls to include a formal cash receipt and reconciliation process.

Post-Audit Action

Since we completed our audit, DPS has distributed notification letters to all elevator owners identified in its elevator database as having expired inspection certificates. The letters' purpose was to urge elevator owners to submit their applications for annual inspections or, if an elevator was not in operation, to provide updated information on its status. DPS has since implemented procedures to notify elevator owners, by mail, within 90 days before their certificates expire.

OVERVIEW OF AUDITED AGENCY

The Department of Public Safety (DPS), established under Chapter 22, Section 1, of the Massachusetts General Laws, is a regulatory, inspection, and licensing agency within the Executive Office of Public Safety and Security (EOPSS) and operates under the direction and control of the Commissioner of Public Safety. According to the Commonwealth's website, DPS's mission is "to reduce the risk to life and property by promoting safety in the design, construction, installation, inspection, operation, repair and alteration of boilers, pressure vessels, elevators, buildings, [and] amusement devices. . . ." and DPS "ensures the safety of the public and instills confidence in the safety of each of the regulated disciplines" under its authority by conducting inspections, licensing individuals, ensuring regulatory compliance with safety regulations and laws, and providing oversight for continuing education of certain license programs. DPS oversight authority includes, but is not limited to, amusement and entertainment, architectural access, construction supervisors, building codes, elevators, nuclear plants, pipefitters, refrigeration, amusements, and ticket resellers.

DPS comprises the Division of Inspection, which includes the Elevator Division, Architectural Access Board, Building Division, and Engineering Division; the State Athletic Commission; the Special Licensing Unit; the Board of Building Regulations and Standards; the Board of Boiler Rules; the Bureau of Pipefitters, Refrigeration Technicians, and Sprinkler Fitters; the Board of Elevator Regulations; the Board of Elevator Appeals; and the Recreational Tramway Board.

EOPSS is responsible for supporting and maintaining DPS's information-technology requirements. DPS's primary application systems include Application Extender, which is an electronic filing system for all inspection, licensing, and office records; the My Licensing Software database, which is a general licensing database containing records of licensing activities and fees; the FoxPro database, which contains records of all elevator inspection activities, including fees and fines; and a Microsoft Access database that is used to record certain licensing fees and management of amusement device inspection activities.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor (OSA) conducted a performance audit of certain activities of the Department of Public Safety (DPS) for the period July 1, 2010 through June 30, 2012. The scope of our audit included an assessment of various activities being conducted by DPS in relation to elevator, amusement device, and ticket reseller licensing and inspection activities, including the internal controls DPS had established over these activities, their effectiveness, and DPS's compliance with applicable laws and regulations in these areas. In addition, we performed an assessment of the controls DPS had established over the collection, recording, and depositing of license and inspection fees and fines for operators of elevators and amusement devices and for ticket resellers. Finally, we followed up on issues identified in our prior audit of DPS (No. 2009-0306-3S). Initially, our audit scope was limited to the period July 1, 2010 through June 30, 2012. However, we extended our audit scope to include the period July 1, 2010 through December 31, 2012 to accommodate our audit test of elevators located in Suffolk County. For our inspection of amusement devices, we extended our audit period through October 5, 2012.

We conducted this performance audit 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.

The objectives of our audit were to determine the following:

1. The controls over elevator licensing and inspections and whether policies and procedures were being adhered to and elevator licensing and inspection activities were administered efficiently and effectively.
2. The effectiveness of the implementation of Chapter 143, Section 65, of the General Laws regarding the imposition of certain fines on elevator owners who operated an elevator beyond its inspection expiration date.
3. The controls over the licensing and inspection of amusement devices, whether policies and procedures were being adhered to, and whether amusement licensing and inspection activities were administered efficiently and effectively.

4. The controls over the licensing and inspection of ticket resellers in the Commonwealth and whether those controls were proper.
5. The adequacy of controls over the collection of, accounting for, and depositing of license and inspection fees and fines and whether revenue was being maximized.

To achieve our audit objectives, we performed the following actions:

- Reviewed OSA audit report No. 2009-0306-3S and performed an analysis of any measures taken by DPS to address the audit findings identified in that report.
- Conducted interviews with management and other staff members, reviewed DPS's current organizational structure, and gained an understanding of DPS operations.
- Obtained and reviewed copies of relevant statutes, policies and procedures, accounting records, and other source documents.
- Obtained an understanding of internal controls over the activities relevant to our audit objectives and performed an assessment of those internal controls based on interviews with DPS senior management, reviews of relevant records, observations of activities, and site visits to selected locations to determine that the stated controls were in place and operating as intended.
- Obtained and tested a non-statistical sample of 24 randomly selected licensed elevator mechanics involved with elevator inspection activities, from a total population of 1,217, to verify that they possessed the required credentials.
- Obtained a copy of the entire DPS elevator inspection database and performed an analysis to identify the number of elevators operating with expired inspection certificates. We compared the results of our analysis to the information presented in DPS's Elevator Inspection and Expiration Summary Report, its Elevator Benchmark Report, and its Elevator Inspection Division Quarterly Report for the period ended September 30, 2012.
- Tested a non-statistical sample of 60 randomly selected passenger elevators (which include escalators) from a total of 8,441 located in Suffolk County. To determine database accuracy, we compared the information on the inspection certificates affixed to our sampled elevators to the information contained in the DPS database.
- Tested a non-statistical sample of 60 randomly selected elevators from all elevators in the DPS database for which a transaction was recorded for an initial or annual inspection during the period July 1, 2010 through June 30, 2012. We determined the average amount of time an elevator operated with an expired inspection certificate by calculating the lapsed time between the date of certificate expiration and the date of the subsequent inspection. We determined the timeliness of inspections by calculating the lapsed time between the date an application fee was submitted to DPS and the date the inspection occurred.

- Conducted interviews with DPS management concerning the implementation of Chapter 143, Section 65, of the General Laws regarding the assessment and collection of fines for operating an elevator beyond its expiration date.
- Tested a non-statistical sample of 30 randomly selected amusement device owners out of a population of 656 who were licensed in accordance with DPS policies and procedures and in compliance with applicable laws and regulations. We selected our sample using two separate lists of licensing transactions for owners of amusement devices. These lists were provided by DPS. The results of this analysis were not projected across the entire population of amusement device owners.
- Obtained and reviewed a non-statistical sample of records for 21 out of a total of 265 active certified maintenance mechanics (CMMs) and 15 out of a total of 38 active certified inspectors (CIs) involved with the amusement device inspections audited to verify that these individuals were properly licensed.
- Conducted three site visits to amusement companies to verify that required certifications (unique state identification number plates and annual permit stickers) were affixed to all amusement devices as required by 520 Code of Massachusetts Regulations (CMR) 5.02(9)(b). We then tested a non-statistical sample of 30 amusement devices out of a population of 115 and examined records to determine whether all required inspections had been conducted. We obtained and reviewed daily inspection logs to identify amusement device operators who conducted inspections. We then selected the 56 operators who conducted these inspections and examined personnel records to determine whether training requirements had been met and, when necessary, background record checks had been conducted as required by 520 CMR 5.04(6)(h)(1)–(7) and 5.04(16), respectively.
- Obtained a list of all 185 ticket resellers licensed by DPS during calendar years 2011 and 2012 and tested a non-statistical sample of 20 ticket resellers to verify that they had met the following licensing requirements: a properly completed application, evidence of licensing fee paid, personal references, and a criminal background check performed according to DPS policy.
- Examined financial controls over the collection of, accounting for, and depositing of licensing and inspection fees. We reviewed all DPS revenue source codes and compared them to information in the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS). We reviewed the process of transferring funds from the DPS accounts to MMARS. We reviewed bank statements from the audit period that DPS had used to perform daily reconciliations.

To assess the reliability of electronic data, we reviewed available documentation, interviewed DPS officials responsible for compiling the data, and performed basic reasonableness checks by tracing data records to source documents to determine the accuracy and completeness of stored data. We performed a data reliability assessment of DPS's information databases, including FoxPro, My Licensing Software, Access, and Application Extender. Based on these assessments, we found that in certain instances the databases contained inaccurate information, which we have documented in

some findings in this report. In addition, we obtained financial data from MMARS and present them in this report for background information purposes related to DPS expenditures and revenue. The MMARS data used for this analysis constitute the official procurement and accounting records of the Commonwealth, are widely accepted as accurate, and form the basis for the Commonwealth's audited annual financial statements. Accordingly, our audit did not involve a comprehensive assessment of the reliability of source Commonwealth data. For the purposes of this report, we found that the information from the MMARS database was sufficiently reliable.

In performing our audit work, we used non-statistical sampling methodologies based on auditor judgment and risk factors identified during our initial internal control assessment. We did not project the results of these tests to the entire population.

Based on our audit, we determined that DPS maintained adequate internal controls over amusement owner licensing, but it did not maintain adequate internal controls over the following activities: elevator inspections; collection of inspection fees; maintaining elevator inspection information; inventory control; maintenance of an adequate internal control plan; Criminal Offender Record Information and training record information for amusement device operators; qualification information pertaining to elevator mechanics, amusement device CMMs, and CIs; licensing and monitoring of ticket resellers; and reporting of revenue collection to the Commonwealth's accounting system.

DETAILED AUDIT RESULTS AND FINDINGS WITH AUDITEE'S RESPONSE

1. Prior audit result unresolved—The Department of Public Safety does not have adequate internal controls over elevator inspections.

In our prior audit, the Office of the State Auditor (OSA) found that the Department of Public Safety (DPS) had not developed adequate internal controls to ensure that it conducted required elevator inspections. Our prior audit analysis of DPS's database showed that as of April 8, 2009, elevator inspections had expired for 11,419 (30%) of the 37,494 elevators listed in the DPS database. The certificates had been expired for a range of less than one year to more than four years.

Our current audit identified a number of problems with DPS's inspection of elevators, as follows.

a. DPS is not conducting timely inspections according to state law.

DPS still has not implemented adequate internal controls to ensure that elevators are inspected in accordance with Chapter 143, Section 64, of the Massachusetts General Laws. Our analysis of the entire DPS database as of October 10, 2012 indicated that 14,211 (36%) of the 39,461 registered elevators in the Commonwealth were operating with expired inspection certificates (a possible threat to public safety), as indicated in the following table.

| Certificate Status | Certificates | Percent |
|----------------------|---------------|-------------|
| Current | 25,109 | 63.6% |
| Expired | 14,211 | 36.0% |
| Unknown ¹ | 141 | 0.4% |
| Total | <u>39,461</u> | <u>100%</u> |

Further, based on a non-statistical sample of 60 randomly selected initial or annual elevator inspection applications received by DPS between July 1, 2010 and June 30, 2012, 54 (90%) of the elevator owners that submitted these applications operated an elevator with an expired certificate for an average of 167 days beyond the elevator's last certificate expiration date before the elevator was inspected. Our analysis showed that it took an average of 94 days after the receipt of an application before the inspection took place. We determined the following:

¹ The DPS inspection database did not contain an expiration date for these elevators.

- Fifty elevator certificates were expired for less than one year before inspection.
- Three were expired for one to two years before inspection.
- One was expired for more than four years before inspection.

Even though DPS has increased its elevator inspection staff from 39 inspectors as of July 2010 to 53 inspectors as of June 2012, DPS's elevator inspection records indicate that there has been little improvement in DPS's ability to ensure that elevators are inspected within the prescribed timeframe.

Authoritative Guidance

Chapter 143, Section 64, of the General Laws states, in part,

All elevators shall be thoroughly inspected and a practical test made of the safety devices required therefor at intervals of not more than one year and at such other times as may be deemed necessary by the inspector; provided, however, that elevators in owner-occupied single family residences . . . shall be inspected and tested at intervals of not less than five years. . . .

DPS requests that elevator owners apply for annual inspections 60 days before the expiration date of their elevator's inspection certificate. This fact is communicated in DPS's inspection certificates, which state, "Apply for Re-inspection 60 days Prior to Expiration." According to DPS officials, the department's goal is to complete the inspections within 60 days after the receipt of an annual elevator inspection application and fee.

Reasons for Problems with Inspections

DPS did not have comprehensive documented policies and procedures in place to ensure the timely inspection of elevators as required by Chapter 143, Section 64, of the General Laws. DPS officials could not explain why such policies had not been developed but indicated that they were being drafted. Further, DPS did not have a process to identify inspection certificates approaching expiration and notify elevator owners to submit their application, and the database that DPS used to maintain its elevator inspection information contained inaccurate and incomplete information, which affects DPS's ability to administer this process properly (see Finding 1c).

b. DPS's lack of timely inspections has resulted in the potential loss of a significant amount of revenue due the Commonwealth.

In addition to the public safety risk posed by allowing elevators to operate without being inspected for extended periods, DPS is potentially forgoing the collection of a significant amount of revenue due the Commonwealth by not performing the required inspections on time.

According to DPS policies, in addition to a \$400 application fee, an additional late fee of \$200 per elevator is assessed to elevator owners whose elevator certificates have been expired for over six months. Of the 14,211 certificates that were expired as of October 10, 2012, DPS had received an application and \$400 inspection fee for 8,655 elevator inspections; however, no inspection had yet been completed for any of these elevators. We could not determine the payment fee status of 467 elevators listed as operational in DPS's database because the status was not listed. The owners of the other 5,089 elevators with expired certificates had not applied for an annual inspection, resulting in uncollected revenue of as much as \$2,035,600 (Table 1). Of these 5,089 elevators, 2,347 had been expired for over 6 months and would therefore be subject to a \$200 late fee. These late fees would have totaled \$469,400, bringing the total uncollected revenue to as much as \$2,505,000 (Table 1). The owners of 1,166 of the 2,384 elevators that had been operating without a current certificate for two years or longer had not paid an annual application fee. The annual \$400 inspection fee that should have been charged to these 1,166 elevators' owners in each subsequent year, totaling an additional \$1,120,400² (Table 2), may have been lost.

Table 1

| Age of Certificate Expiration | No. of Elevators Operating with Expired Certificates and Fees Not Paid | Estimated Loss of Annual Inspection Revenue (\$400 Fee) | Estimated Loss of Late Fees (Additional \$200 Fee) | Total Uncollected Revenue |
|-------------------------------|--|---|--|---------------------------|
| Less than 6 months | 2,742 | \$ 1,096,800 | \$ 0 | \$ 1,096,800 |
| More than 6 months | 2,347 | 938,800 | 469,400 | 1,408,200 |
| Total | <u>5,089</u> | <u>\$ 2,035,600</u> | <u>\$ 469,400</u> | <u>\$ 2,505,000</u> |

² Years 2–4 potential lost annual application fees = (274 x \$400) + (149 x \$800) + (743 x \$1,200) = \$1,120,400.

Table 2

| Age of Certificate Expiration | No. of Elevators Operating with Expired Certificates and with Fees Paid | No. of Elevators Operating with No Fee Paid | No. of Elevators Operating with Expired Certificates and with No Fee Paid | Total No. of Elevators with Expired Certificates | Multiyear Potential Lost Annual Application Fee (Years 2-4) Subsequent Fees |
|-------------------------------|---|---|---|--|---|
| 0-3 months | 4,020 | 0 | 2,040 | 6,060 | - |
| 3-6 months | 2,043 | 0 | 702 | 2,745 | - |
| 6 months-1 year | 1,365 | 1 | 685 | 2,051 | - |
| 1-2 years | 473 | 2 | 496 | 971 | - |
| 2-3 years | 146 | 0 | 274 | 420 | \$ 109,600 |
| 3-4 years | 87 | 0 | 149 | 236 | 119,200 |
| 4+ years | 521 | 464 | 743 | 1,728 | 891,600 |
| Total | <u>8,655</u> | <u>467</u> | <u>5,089</u> | <u>14,211</u> | <u>\$1,120,400</u> |

Note: Uncollected revenue does not include multiple-year \$200 late fees; DPS only levies a one-time late fee even though an elevator may not have been inspected over multiple years.

Authoritative Guidance

DPS is responsible for ensuring prompt, timely inspections and the collection of inspection fees and fines.

Chapter 143, Section 62A, of the General Laws states that “the owner or person in control of a building in which an elevator is operated shall pay fees to be determined annually by the secretary of administration.”

Reasons for Delays in Fee Collection

DPS did not have policies and procedures to ensure the proper and timely collection of elevator inspection fees. The current system relies on the elevator owners to submit applications for inspection rather than having DPS actively manage and monitor the inspection process. This has caused delays in the collection of fees, and in some cases revenue may have been permanently lost.

c. DPS is not maintaining, and thus may not be reporting, accurate elevator inspection information.

Our test results indicate that the elevator inspection information that DPS maintains in its database is not up to date, complete, and reliable, and as a result, elevator compliance reports

generated from information in DPS's database and submitted periodically to the Legislature may not be accurate. We tested a non-statistical sample of 60³ randomly selected elevators from the total population of 8,441 elevators located in Suffolk County and then conducted site visits to these elevators to determine whether the information on their inspection certificates was consistent with the information in DPS's database. For the 53 elevators we were able to inspect, 31 (58%) of the elevator inspection certificates contained information that varied from the data in DPS's database. Below is a summary of the inaccuracies we identified in DPS's database based on our testing.

Table 3

| Description of Variance (Certificate versus Database) | Occurrences | Percent of Elevators |
|---|-------------|----------------------|
| Issued date did not match | 24 | 40% |
| Expiration date did not match | 20 | 33% |
| Fire test status did not match | 11 | 18% |
| Transaction number did not match | 11 | 18% |
| Certificate did not match (90 day versus annual) | 3 | 5% |
| Inspection was performed but old certificate was not replaced | 2 | 3% |
| Inspection was performed and database was not updated | 1 | 2% |

Moreover, our field inspection of elevators found that 18 (34%) of the 53 were operating with expired certificates. The 18 expired certificates had been expired for durations ranging from less than one month to more than 38 months, with a median⁴ duration of 2.5 months.

DPS is required to submit to the Legislature a quarterly report on the elevator inspection backlog. Because DPS is not ensuring that the information in its elevator database is up to date, complete, and reliable, the corresponding inspection information that DPS has submitted to the Legislature may not be accurate. For example, our analysis of the entire DPS elevator inspection database showed that as of October 10, 2012, 63.6% of the elevators had current inspection certificates. However, our examination of Elevator Inspection and Expiration Summary Reports generated monthly by DPS from its elevator database showed monthly inspection compliance

³ For our sample of 60 elevators, we were unable to locate seven of the certificates for the following reasons: 2 elevators could not be found, 2 elevators could not be accessed because of building closure, 2 inspection certificates could not be located, and 1 elevator had an incorrect inspection certificate identification number.

⁴ The median is the midpoint of a group of numbers. In a group that contains outliers, or observations that are significantly higher or lower than the majority (and may represent measurement errors), it can be used to provide a more accurate representation of the majority of the group.

rates averaging 70% through fiscal years 2011 and 2012. For the quarter ended September 30, 2012, DPS reported an inspection compliance rate of 71% to the Senate and House Ways and Means Committees.

The table below shows our audit test results and provides a comparison to the reported information on the Elevator Division Inspectional Quarterly Report dated September 30, 2012.

Table 4

| Elevator Status | OSA Test Result as of October 10, 2012 | OSA Test Result as of October 10, 2012 | DPS Report Dated September 30, 2012 | DPS Report Dated September 30, 2012 |
|-----------------|---|---|--|--|
| | Unit Totals | Percent of Total | Unit Totals | Percent of Total |
| Current | 25,109 | 63.6% | 28,152 | 70.9% |
| Expired | 14,211 | 36.0% | 10,883 | 27.4% |
| Unknown | 141 | 0.4% | 661 | 1.7% |
| Total | <u>39,461</u> | <u>100%</u> | <u>39,696</u> | <u>100%</u> |

During our audit, DPS officials requested that we provide the methodology used for our analysis to see whether they could identify the reasons for the different results. In response, OSA provided DPS with a description of our methodology; DPS was unable to identify a cause for the different calculated compliance rates.

Authoritative Guidance

Under DPS's budget language for fiscal years 2011 (Chapter 131 of the Acts of 2010) and 2012 (Chapter 68 of the Acts of 2011), the department is required to submit to the Legislature a report on the elevator inspection backlog. In addition, Chapter 143, Section 62, of the General Laws requires that DPS "cause a system of elevator inspections to be instituted and maintained in the Commonwealth."

Reasons for Inaccurate Records and Reporting

DPS officials agreed that the database in which DPS maintains its elevator inspection information needed to be updated. DPS's chief of elevator inspections also stated that he was aware of the large percentage of elevators operating with expired certificates. DPS officials acknowledged that the department does not proactively identify elevator inspections that have expired or will soon expire but relies on individual owners to contact DPS to schedule inspections. However, as noted in the Agency Progress section of this report, DPS has since

implemented procedures to notify elevator owners, by mail, within 90 days before their certificates expire.

Recommendations

- DPS should develop a comprehensive, documented set of policies and procedures to strengthen internal controls over the elevator inspection process to ensure the timely inspection of all elevators in the Commonwealth.
- DPS should establish and implement the necessary internal controls to ensure that elevator owners are notified within 90 days before their certificates expire as prescribed by management. Where appropriate, if an elevator's inspection certificate has expired and its owner has not applied and paid for an annual elevator inspection, DPS should shut down the elevator and post placards indicating the reason.
- DPS should strengthen internal controls over the generation of the Elevator Division Inspectional Quarterly Report to ensure that complete, accurate, and up-to-date information regarding the elevator inspection compliance rate is submitted to the Legislature.
- DPS should continue to perform an annual analysis of how many inspectors it will need to ensure compliance with Chapter 143 of the General Laws and seek to obtain this staffing level.

Auditee's Response

DPS provided overall comments on this report as well as comments specific to each finding. DPS's overall comments are excerpted below.

Since the end of the audit scope (December 2012), the Department has made improvements . . .

- *Strengthened internal controls over the elevator inspection process to ensure the timely inspection of all elevators in the Commonwealth;*
- *Worked to develop policies and procedures to ensure that a complete, accurate, and perpetual inventory of computer-related items is maintained;*
- *Implemented procedures for the scanning, indexing, and retention of supporting documentation for all licenses that are issued;*
- *Worked to establish an internal control plan to ensure that all licensed ticket resellers comply with applicable laws and regulations;*
- *Created an entirely new licensing division which was separated from the cashiers' office;*
- *Continued to ensure the existence of a formal cash receipt and reconciliation process.*

Further, the Department expects to begin its online licensing program within the next month, and anticipates the roll out of its online permitting and inspection database early next year. These technological improvements will dramatically change the business practices for all of the areas which were audited.

DPS's comments on the specific issues noted in the above finding are excerpted below.

The Department has numerous legislative reporting requirements. The Department meets these requirements, providing timely and accurate information.

The Department recognizes that there is room for improvement in its elevator division. In the time since the OSA completed its inspection, the Department has made great progress in encouraging license renewal and facilitating timely inspection. It continues to push forward on these goals, efficiently using the limited resources it is afforded. Moreover, the Department is in the final stages of completing its new electronic permitting and inspection program, which will ensure greater accountability and efficiency. . . .

A chronic issue in the elevator program has been the difficulty in reducing the elevator backlog. While the Report is correct that the Department has more inspectors than it has ever had, the backlog issue has not been reduced to levels that the Department deems acceptable. The Department recognized this anomaly prior to the start of the Audit, and in August 2012, it began a comprehensive analysis of the elevator division shortly after the current elevator chief was appointed.

The findings of the Department's analysis were submitted to the Legislature in July 2013. This analysis reviewed everything from the inspection process itself, to the statutorily required prerequisites to become an elevator inspector, to the salary disparity between a state elevator inspector and private sector mechanics, and finally, to the sheer number of new elevators which come on line every year. Since the initial analysis was concluded in June 2013, the Department has continued to look at the issues presented to ensure that it is maximizing its resources as efficiently as possible.

In a follow-up response, DPS added,

The Department has based each of its Legislative reports on information contained in the Department's FoxPro database which stores all elevator related information. Each month, a report is run which identifies the number of valid elevator certificates during a specific timeframe. This information is included in the Department's monthly benchmark report, and is also conveyed to the Legislature annually.

In discussion after the end of our audit fieldwork, and in subsequent correspondence, DPS management indicated that the department expected to make improvements regarding the timely inspection of elevators. They stated that DPS had been performing compliance inspections in an effort to reduce the elevator backlog and planned to implement inspection report software during the first quarter of calendar year 2015 that would assist in the monitoring of elevator inspection compliance. They also provided further correspondence stating,

[DPS's] FY15 budget includes an increase in its retained revenue account of more than \$2 million. The additional resources will allow the DPS to hire up to 10 additional elevator inspectors and establish a new Compliance Unit within the Elevator Division. The Unit will be comprised of four inspectors who will be dedicated to identifying [elevators] with expired certificates and bringing them into compliance. The Unit will also be responsible for ensuring and increasing compliance with other applicable public safety laws. For example, the Compliance Unit inspectors will make

site visits to confirm that licensed personnel are present as required, that proper permits have been issued, and that any relevant work is completed by a registered elevator company.

Auditor's Reply

Based on its response, DPS is taking measures to address our concerns related to performing timely inspection by implementing a new electronic permitting and inspection system that should provide greater accountability and efficiency in this area. Also, as stated earlier in our report, DPS has implemented procedures to notify elevator owners, by mail, within 90 days before their certificates expire. In addition, we agree that added resources for fiscal year 2015 should be dedicated to identifying elevators with expired certificates and bringing them into compliance. As part of this effort, we continue to recommend that, where appropriate, all elevators with expired inspection certificates whose owners have not applied and paid for an annual elevator inspection be shut down and placards posted in an effort to ensure that active elevators are promptly inspected and are not allowed to operate without current inspection certificates.

Although DPS has filed elevator inspection backlog reports quarterly with the Legislature, as stated in our report, we maintain that because DPS did not ensure that the information in its FoxPro elevator database was up to date, complete, and reliable, DPS cannot be certain that the information it reported to the Legislature was accurate. In fact, DPS officials acknowledged to our auditors that its FoxPro database needed to be updated. Therefore, we stand by our analysis of the FoxPro database and the unexplained variances noted in our report and again recommend that DPS strengthen internal controls over the generation of the Elevator Division Inspectional Quarterly Report to ensure that the information reported to the Legislature is up to date, complete, and accurate.

2. Prior audit result unresolved—DPS is not complying with requirements for inventory of property and equipment.

Our prior audit found that DPS was not complying with Office of the State Comptroller (OSC) and Operational Services Division (OSD) requirements for accounting, recording, reporting, and reconciling its fixed assets or for disposing of items deemed to be surplus and that as a result, it could not be certain that these assets were being adequately safeguarded against abuse or misuse. Our current audit found that DPS had not developed inventory control policies and procedures and did not maintain a complete and accurate inventory list of its fixed assets.

Authoritative Guidance

The OSC and OSD Fixed Assets—Acquisition Policy, issued July 1, 2004 and revised on November 1, 2006, states, in part,

Non-[generally accepted accounting principles, or GAAP] Fixed Assets must be recorded in a Department's inventory and reconciled at least annually. This inventory can be either electronic or on paper, as long as it records the date of purchase, amount, description, location and disposition of an item.

In addition, the OSC and OSD Fixed Assets—Accounting and Management Policy, issued July 1, 2004 and revised on November 1, 2006, states, in part,

Annual Inventory

*There shall be an **annual inventory** taken of fixed assets owned by every Department. This inventory shall include, at a minimum, a verification of the existence and location of fixed assets owned by a Department. This inventory shall be done on or about June 30th of each year for GAAP and non-GAAP assets. All changes needed to assets shall be entered in [the Massachusetts Management Accounting and Reporting System, or MMARS] no later than seven (7) business days after June 30th of each year.*

Reconciliation of Fixed Asset Inventory

*There shall be a **reconciliation of the fixed asset inventory** against the books and records maintained by the Department, either on the Fixed Asset Subsystem or other documented methods. This reconciliation is to be done, at a minimum, on an annual basis. This reconciliation shall be available for audit either by the department's internal auditors, the State Auditor's Office or the Commonwealth's external auditors. Internal records must reconcile to the records available on the Fixed Asset Subsystem. A Department will maintain **supporting documentation of fixed asset transactions** available for examination by appropriate audit organizations.*

Finally, 802 Code of Massachusetts Regulations (CMR) 3.05(1), states,

All agencies must examine their inventories of equipment, supplies and materials and periodically report property that is no longer needed to the State Surplus Property Officer. The disposal of all surplus, salvage, scrap, and worthless property must be coordinated through the State Surplus Property Officer. State agencies may not transfer, donate, destroy or otherwise dispose of property without following these procedures.

Reasons for Noncompliance

According to DPS management, the department has not developed policies and procedures for the inventory of fixed assets because it does not have custody of any fixed assets other than IT-related equipment that need to be inventoried. These officials added that DPS's not maintaining an inventory of computer-related equipment is a result of a consolidation of IT functions under the Executive Office of Public Safety and Security to be administered by the state's Office of

Technology and Information Services (OTIS). However, after the IT consolidation, neither DPS nor OTIS assumed an active role regarding inventory control of IT assets. In addition, we found a lack of communication between DPS and OTIS regarding the responsibility of maintaining and reconciling a comprehensive system of record for IT inventory.

Regarding the previously reported issue with disposal of items deemed to be surplus, DPS officials informed us that the department follows 802 CMR 3.05(1) for the disposal of these assets. DPS did not dispose of any assets during our audit period, so OSA could not verify this assertion.

Recommendations

DPS, in conjunction with OTIS, should develop policies and procedures to ensure that a complete, accurate, and perpetual inventory of computer-related items is maintained. In addition, the inventory record should be reconciled annually to conform to OSC requirements.

Auditee's Response

DPS's comments on this specific issue are excerpted below.

The Report acknowledges the difficulty in the aftermath of the IT consolidation and the communication challenges. The Department recognizes that an updated inventory is essential to the efficient management of its resources, and has established lines of communication with OTIS to better coordinate this. Further, the Department will be maintaining its own inventory separate and apart from OTIS.

Auditor's Reply

Based on its response, DPS is taking measures to address our concerns on this matter.

3. Prior audit result unresolved—DPS's internal control plan does not comply with OSC guidelines.

Our prior audit found that DPS did not have a complete and updated internal control plan (ICP), contrary to Chapter 647 of the Acts of 1989 and to OSC requirements. The absence of a complete and comprehensive ICP places DPS at risk of not achieving all its objectives.

Our current audit found that DPS's ICP only addressed fiscal policy, with no reference to programmatic activities, and was not based on a department-wide risk assessment. We also found that DPS's ICP had not been updated to include and identify any of the eight interrelated components of enterprise risk management (ERM). The eight interrelated components are internal

environment, objective setting, event identification, risk assessment, risk response, control activities, information and communication, and monitoring.

Finally, we determined that the Internal Control Questionnaires (ICQs) that DPS submitted to OSC during fiscal years 2011 and 2012 were inaccurate. Specifically, the ICQs stated that the ICP had addressed internal control systems, procedures, and operating cycles covering the objectives of department-wide activities and that a department-wide risk assessment including the consideration of fraud had been conducted. However, our analysis of the ICP revealed that the objectives of all departments' activities had not been considered, and we found no evidence that a department-wide risk assessment had been conducted.

Authoritative Guidance

Chapter 647 of the Acts of 1989 requires that state agencies such as DPS develop ICPs in accordance with guidelines published by OSC and evaluate them annually, or more often as conditions warrant.

The OSC Internal Control Guide, states, in part,

All operating departments in Massachusetts state government are required to develop and document departmental internal controls, which must be prioritized and summarized into a departmental internal control plan based on a risk assessment. Responsibility for the department internal control plan resides with the department's Internal Control Officer (ICO). . . .

An internal control plan is a description of how a department expects to meet its various goals and objectives by using policies and procedures to minimize risk. The Commonwealth has defined the internal control plan to be a high-level summary supported by lower level policy and procedures. Each department's internal control plan will be unique; however, it should be based on the same framework—the organization's mission statement, goals and objectives, and components of internal control recommended by [the Committee of Sponsoring Organizations of the Treadway Commission].

Reasons for Inadequate ICP

According to DPS management, the continual change of departmental operations has made it difficult to define the control environment throughout the department and develop a comprehensive ICP.

Recommendations

DPS should update its ICP, beginning with the documentation of a department-wide risk assessment. Based on this assessment, DPS should then develop and implement internal controls to

mitigate all identified risks. Further, DPS should ensure that its ICP is updated to incorporate the eight components of ERM and that its internal control system is evaluated and necessary changes are implemented at least annually or when conditions warrant. Finally, DPS should ensure that the ICQs it submits to OSC each year are accurate.

Auditee's Response

A significant reason that the internal control plan process was delayed was due to the incoming new permitting and inspection system which would completely change the business practices of the Department's programs. Given that the implementation of the new database took longer than anticipated, the Department has been working diligently for the past 18 months in this area and has completed initial risk assessments for the following programs and areas:

- *Building*
- *Amusements*
- *Elevator*
- *Tramways*
- *HR*

Further, draft risk assessments for the Fiscal and Regulated Activities division have also been performed. Once these are complete, the Department will begin ICPs for the Engineering division and the [Architectural Access Board, a division of DPS].

Additionally, just within the past two months, the Department has held a series of Joint Application Development ("JAD") sessions with its vendor to walk the software designers through its business practices for all of its programs. This included a step-by-step description of all of the processes for each division. While this has been an arduous and time consuming project, it has proven to be greatly beneficial to the Department as it begins anew its risk assessment and internal control plans for the new way it will be doing business once the new permitting system is implemented.

Auditor's Reply

Based on its response, DPS is taking measures to address our concerns on this matter.

4. DPS needs to improve its review of amusement device operator records and verification of operator training.

DPS needs to improve its review of required amusement device operator records maintained by amusement device owners. Specifically, DPS does not conduct reviews of amusement device operator records to ensure that amusement device owners are conducting Criminal Offender Record Information (CORI) checks on all employees for whom they are required. In addition, improvements are needed regarding the verification of required training for operators of amusement

devices. Although amusement device owners are required to maintain records of CORI checks, DPS has not established controls such as site visits to amusement device owners to review the accuracy and completeness of those records. With regard to training records for amusement device operators, even though DPS does conduct routine amusement device inspections that include a review of training records, we noted exceptions at one of the sites visited; these exceptions indicate a need for increased monitoring by DPS in this area. Without procedures and effective controls to verify CORI data and training records, DPS does not have adequate assurance that amusement device owners are complying with all applicable regulations that are designed to ensure the safe operation of the devices. Additionally, during our walkthrough at the fair site we visited, we saw four amusement ride operators not wearing the required operator certifications (ID badges). ID badges indicate whether the operator is over 18 years of age, display the operator's photograph, and indicate the amusement device for which the operator is certified.

We conducted site visits to three amusement company sites (a theme park, a fair, and a small amusement company). At each site, we inspected each amusement device to ensure that it had a unique state identification (USID) number plate with an annual permit affixed to it indicating that DPS had approved the ride for operation in the current year. The USID number is a unique identifying number assigned to each ride when the first annual permit is issued. The USID number should correspond to the USID number listed on the amusement ride owner's license.

During our inspection of the amusement rides at one site, we identified six rides that did not have the proper annual permit displayed on the USID number plate. In addition, one of the six amusement rides had a USID number plate that was not listed on the amusement owner's license. We determined that not displaying the annual permits was an oversight by the DPS inspector, that the unlisted USID number plate had been swapped from another device that was not being used, and that the appropriate protocol to alert DPS had not been followed. We brought these instances to DPS's attention.

We also reviewed records from our non-statistical sample of 30 amusement devices to verify that each device had received the required annual inspections by a certified inspector (CI), an amusement company certified maintenance mechanic (CMM), and a DPS inspector. All inspections must be completed, and all issues resolved, before an annual permit is issued. We included the six amusement devices with missing annual permits in our sample in order to follow up on whether

required inspections had been performed. In spite of the missing annual permits and the unlisted USID number plate, all inspection records for each amusement device were complete, indicating that each device had successfully passed all required inspections.

Amusement ride operators are required to perform daily inspections and record the results before allowing patrons on rides. We inspected a non-statistical sample of 30 amusement ride files for documented evidence that daily inspections were being performed. While checking the amusement ride inspection logs, we selected 56 ride operator names from the daily operator inspection logs and requested all training and CORI supporting documentation for those individuals. We noted problems with records, including CORI investigations and staff safety and training requirements.

Authoritative Guidance

The regulation 520 CMR 5.02(9)(b) requires that all amusement devices be assigned a unique identification number called a USID number plate:

When an amusement device is approved for an annual permit, the Department shall affix an annual permit to the USID plate to identify to the public that the amusement device conforms with the requirements to be licensed for that year.

DPS regulation 520 CMR 5.04(16), which governs the operation of amusement devices in the Commonwealth, states, in part,

Criminal History Inquiries.

(a) All Owners shall submit for the Department's approval, a pre-employment criminal history inquiry procedure as a condition for their license.

(b) At a minimum, the procedure must include the following provisions:

- 1. The owner will conduct criminal history inquiries of all individuals 18 years of age or older seeking employment for the positions of certified maintenance mechanic, maintenance technician, ride operator, and operator assistant, pursuant to M.G.L. c. 6, § 172(c) and the rules and regulations promulgated pursuant to M.G.L. c. 6, § 171. . . .*

(e) In addition to the requirements set forth in 520 CMR 5.04(16)(a) through (e), owners must conduct criminal history inquiries on all individuals 18 years of age or older who are currently employed or seeking employment as a certified maintenance mechanic, maintenance technician, ride operator, or operator assistant.

However, our review of 56 amusement operator files found that for the 41 employees for whom a CORI check was required, owners did not conduct the required CORI checks on 6 employees

(15%) before allowing them to begin work. In three instances, CORI checks were never performed, and in three other instances, CORI checks were conducted after the venue had closed.

Regarding amusement device operator training records, 520 CMR 5.04(6)(h) states,

The owner shall ensure that each operator:

- 1. Has read and understood the manufacturer's recommendations for the operation of the ride and, if applicable, any operations manual provided by the owner;*
- 2. Knows the safety-based limitations, including height, weight or other rider requirements regarding who may ride the ride;*
- 3. Is well versed on emergency procedures;*
- 4. Has had adequate training to operate the ride;*
- 5. Knows how to do the pre-startup operational ride checks as required by the manufacturer or as established by the owner in compliance with 520 CMR 5.00;*
- 6. Knows how to verify that the daily maintenance inspection log has been done prior to operating the ride;*
- 7. Has knowledge of the use and function of all normal and emergency operating controls and the proper use of the ride; and*
- 8. Has signed a ride specific certification attesting to [520 CMR 5.04(6)(h)1. through 7].*

From our test of 56 files, we found that training records at two of the three sites we visited were being properly maintained; however, 6 of the files at one site (11%) did not comply with DPS regulations. Specifically, training records for three operators were not ride-specific, did not show that the operators had received all required training, or did not show that training was provided before the employee operated amusement devices with riders present. Further, three other operators did not appear on the company's amusement ride operator training record. Without adequate recordkeeping, DPS cannot be certain that operators have been properly trained.

Finally, 520 CMR 5.04(6)(i) states,

Operator certification must be worn by the operator and be readily visible to the general public. This certification must indicate whether the operator is over 18 years of age, display the operator's photograph, and indicate the amusement device for which the certification has been issued.

Reasons for Insufficient Monitoring

DPS has not developed policies, procedures, and necessary internal controls to ensure amusement device owners' compliance with DPS regulations concerning CORI and training responsibilities. DPS relied on unverified survey result information gathered from amusement device owners in 2007 and 2011 to assess compliance with its CORI regulations.

Recommendation

- DPS should regularly review amusement ride owner operations to ensure that they comply with the requirement that criminal background record checks be performed on all employees for whom they are required.
- DPS should increase its monitoring to ensure that training for amusement device operators is being conducted and recorded and that all licenses, permits, and certifications are displayed in accordance with 520 CMR 5.00.

Auditee's Response

DPS's comments on this specific issue are excerpted below.

As part of the Audit, the OSA was provided with all of the checklists and inspection forms used by the Department. . . . Further, the Department explained the inspection process and procedures in detail. . . . Included in this discussion was the fact that as part of the inspection process, the Department's inspectors review training records. . . . The Department will continue to monitor this matter and instruct industry professionals to achieve 100% compliance.

In a follow-up response, DPS added,

In order for DPS inspectors to review amusement industry CORI information during site visits during the period of this audit [or at any time before May 2012], DPS would have been required to submit an application to [the Criminal History Systems Board, or CHSB] for each DPS inspector and await a review and determination by CHSB for each individual inspector's certification pursuant to [CORI guidelines]. This would have been unreasonably burdensome for both DPS and CHSB, and would not have been the most practical means of reviewing amusement companies' CORI records.

In addition, in discussion after the end of our audit fieldwork, DPS stated that it planned to implement inspection report software during the first quarter of calendar year 2015 that would assist in the monitoring of amusement owner compliance.

Auditor's Reply

In addition to the above comments, DPS indicated after we finished our audit fieldwork that it would begin using a new application system called iCori, which would allow electronic access to

CORI records. DPS believes that the new application will greatly improve the effectiveness and efficiency of monitoring amusement industry compliance with all CORI requirements.

Based on its responses, DPS is taking measures to address our concerns on this matter.

5. DPS does not always maintain required documentation for elevator mechanics, amusement device CMMs, and CIs.

DPS could not substantiate that it was maintaining required documentation for all elevator mechanics, amusement device CMMs, and CIs. Specifically, DPS could not provide documentation (e.g., original application, required education, or work experience) for 5 of our sample of 36 CMMs and CIs that it had licensed in these areas. Further, our audit test of 24 DPS licensed elevator mechanics revealed that 19 did not have supporting documentation for their original and renewal elevator mechanic license applications. As a result, DPS cannot document that these personnel met all requirements for work experience, education, and testing and that all licenses were issued in accordance with the applicable laws and regulations. In addition, critical supporting documentation that serves as the basis for issuing licenses was not indexed, making it difficult, if not impossible, to retrieve specific supporting documentation. We gave DPS management the above information; however, DPS was unable to find the documentation.

Authoritative Guidance

CMM and CI applicants must pass a DPS examination in order to be licensed as required by 520 CMR 5.02 for CMM licenses and Chapter 146, Section 62, of the General Laws for CI licenses. CMMs also have the option to provide a certification from the National Association of Amusement Ride Safety Officials (NAARSO) or the Amusement Industry Manufacturers and Suppliers Trade Association (AIMS) in lieu of the DPS examination.

For elevator mechanics, DPS must adhere to Chapter 143, Section 71C, of the General Laws, which requires applicants seeking an elevator mechanic's license from DPS to provide required documentation to the state board of building regulations and standards within DPS as follows:

Each person that makes written application for an elevator mechanic license and complies with the following requirements shall be entitled to be examined: (a) he shall be a current registered elevator constructor apprentice with the division of apprentice training; (b) he shall furnish documentary proof satisfactory to the board, from his registered joint apprentice committee or his current or previous employer or employees engaged primarily in the business of erecting, constructing, installing, altering, testing, repairing or maintaining elevators, escalators, moving

walks and other related conveyance equipment, that he has worked not less than 6,000 on-the-job-training hours over a period of not less than 3 years as an elevator constructor apprentice, under the direct and immediate field supervision of a licensed elevator mechanic in the commonwealth; (c) he shall furnish documentary proof to the board of successful completion of a minimum of 450 hours of classroom environment training from an approved instructional training program such as the United States Department of Labor-recognized National Elevator Industry Educational Program, known as NEIEP, or the educational equivalent, having core curriculum standards substantially equal thereto with classroom instruction directly related to erecting, constructing, installing, altering, testing, repairing or maintaining elevators, escalators, moving walks and other related conveyance equipment, recognized and accredited by the division of apprentice training or the department of education.

Our review of CMM applications showed that 2 of the 21 mechanic files reviewed were missing supporting documentation to confirm that the applicant had passed the DPS exam or held a professional certification by AIMS or NAARSO, but DPS issued a license to both applicants. Of the 15 CIs sampled, the records for 3 inspectors did not include a record of the inspector's original application or evidence that s/he passed a DPS exam before being licensed.

Reasons for Missing Documentation

DPS had not developed adequate recordkeeping policies and procedures, including the requirement that staff properly scan and retain all required documentation. The lack of proper recordkeeping policies and procedures has contributed to DPS's inability to provide reasonable assurance that all licenses were issued in accordance with the applicable laws and regulations.

Recommendations

- DPS should implement procedures for the scanning, indexing, and retention of supporting documentation for all licenses that are issued. Further, documents supporting DPS's decision on whether to issue a license should be retained and retrievable.
- DPS should include a verification form or checklist in the file for each license issued in order to verify that all of the required paperwork has been submitted, reviewed, retained, and indexed.
- DPS should establish procedures for supervisory reviews of applicant files before the issuance of a license. We believe that this action will improve the quality of information retained and strengthen the recordkeeping process.

Auditee's Response

Since the Audit, the Department has changed its procedures in this area and now receives most of its license renewals through a lockbox. The lockbox is enabled with imaging software . . . of all documentation sent in with the application. For all other transactions (i.e., renewals done over the counter at the Boston office, test applications, and pending documentation sent in), those documents are scanned directly into the license holders' file on the new licensing database. These changes should address the issues raised in the Report.

Auditor's Reply

Based on its response, DPS is taking measures to address our concerns on this matter.

6. DPS's internal controls over the licensing and monitoring of ticket resellers are deficient.

Under Chapter 140, Section 185A, of the General Laws, anyone who “engage[s] in the business of reselling any ticket or tickets of admission or other evidence of right of entry to any theatrical exhibition, public show or public amusement or exhibition” must be licensed by DPS. Ticket resellers must apply for a license annually and must submit to background record checks, produce two letters of recommendation, and pay a \$250 licensing fee. This law and DPS's regulations in this area are intended to safeguard the public against fraud, extortion, and exorbitant rates when purchasing tickets to theaters and other places of public amusement or entertainment. During our audit period, DPS issued licenses to 137 ticket resellers throughout the Commonwealth.

However, DPS has not established internal controls to effectively monitor the activities of ticket resellers and, in some instances, is not following its own licensing procedures. As a result, DPS cannot assure the public that ticket prices charged by resellers are fair and appropriate. The sections below detail the internal control deficiencies we identified in this area.

a. Internal controls over ticket reseller licensing need improvement.

DPS does not have adequate internal controls in place to ensure that applicants for ticket reseller licenses submit applications in accordance with 520 CMR 8.01. In addition, DPS does not always follow its policies for ticket reseller applicants who have CORI offenses.

We reviewed the DPS files of a judgmental sample of 20 ticket resellers who were licensed by DPS during our audit period and found the following deficiencies:

- Thirteen licensed ticket resellers did not submit their license renewal applications at least 30 days before the expiration date of their previous license as required by 520 CMR 8.01(3). In addition, 5 of the 20 licenses expired five days to three months before a new license renewal application was submitted.
- We found no evidence of the written record of the basis for the decision to license two ticket resellers with CORI checks that resulted in findings (offenses), though that record is required by the DPS administrative policy for CORI reports. Bypassing the CORI administrative policy can allow applicants with criminal records to be licensed by DPS without the proper justification.

Authoritative Guidance

DPS's Administrative Policy for CORI Reports states that after the department has made a determination regarding licensure, it will notify the applicant. According to the DPS director of Administrative Services and Regulated Activities, CORI checks that reveal any questionable offenses are automatically denied. After being informed of the denial for licensure, the applicant may appeal and will be granted a hearing with the DPS director of Administrative Services and Regulated Activities, the deputy general counsel, and the hearings officer. The DPS commissioner makes the final determination of whether to grant a license.

According to the DPS Administrative Policy for CORI Reports, if the department determines, after consideration of additional information, that an otherwise disqualified applicant is suitable for licensure, the commissioner shall retain a written record of the basis for the decision.

Reasons for Lack of Internal Controls over Ticket Reseller Licensing

Because regulatory standards for licensure are not clearly defined, DPS does not have documented criteria by which it must evaluate licensing applicants. For example, the application for a new ticket reseller license requires the submission of affidavits from two reputable Massachusetts citizens verifying the reputation of the applicant. However, according to DPS management, DPS does not verify or follow up on these recommendations and there is usually no contact information included with the affidavits.

b. Oversight of licensed ticket resellers is insufficient.

DPS does not regularly monitor and investigate the activities of ticket resellers to ascertain whether they are operating in compliance with applicable laws, rules, and regulations and the terms and conditions of their licenses. For example, we learned that DPS did not conduct site visits to licensed ticket resellers, which would be an effective way of monitoring that compliance. The only mechanism in place for DPS to monitor resellers' operations is to investigate complaints concerning licensees on a case-by-case basis. We found that during our audit period, DPS never investigated a ticket reseller's ticket pricing practices or conduct audits of ticket reseller affairs.

Authoritative Guidance

Chapter 140, Section 185A–G, of the General Laws contains pricing restrictions that limit ticket resellers to charging no more than \$2 above the face value of the ticket being resold. However, there are certain allowable membership fees, service charges, and procurement costs that can be incorporated into the resale price of the ticket, as discussed in Section 185D:

No licensee under section one hundred and eighty-five A shall resell any ticket or other evidence of right of entry to any theatrical exhibition, public show or public amusement or exhibition of any description at a price in excess of two dollars in advance of the price printed on the face of such ticket or other evidence of right of entry as the purchase price thereof; provided, however, that a price in excess of the above maximum shall not be deemed in violation of this section if the amount in excess of the above maximum is solely attributable to service charges. For the purpose of this section, service charges are defined as costs incurred by said licensee related solely to the procuring and selling of such ticket or other evidence of right of entry and not related to the general business operation of said licensee. Service charges include, but are not limited to, charges for messengers, postage, and long distance telephone calls, extensions of credit and costs attributable thereto.

In order to determine compliance with the above statute, Chapter 140, Section 185E, of the General Laws grants DPS access to licensed ticket resellers' records to investigate their affairs as often as it deems it necessary to do so. However, DPS did not perform such investigations to ensure compliance.

Reasons for Insufficient Oversight of Licensed Ticket Resellers

DPS has not established any policies and procedures that establish how often and/or under what conditions it would be necessary to review a ticket reseller's operations, other than its ability to investigate a reseller's affairs in response to a consumer complaint. Although DPS has the authority to revoke and suspend licenses, there were no revocations or suspensions during our audit period.

Recommendations

- DPS should ensure that all licensed ticket resellers comply with all applicable laws and regulations and should also establish formal policies and procedures and associated internal controls for the licensing and oversight of these entities.
- In an effort to ensure that tickets are being resold at fair and reasonable prices, DPS should perform site visits to resellers to review their books and records as set forth under Chapter 140, Section 185E, of the General Laws.

Auditee's Response

DPS stated in its overall response that it had developed an ICP related to ticket resellers. It added the following specific details:

The core mission of the Department is focused on the protection of life through its statutes and regulations. The Department has limited resources to devote to this program which is essentially a consumer protection mechanism. Further, the current statute regulating ticket resellers is outdated and lacks any meaningful enforcement authority given the way the industry operates in 2014. Thus, the Department is saddled with an outdated law which does not address sales of tickets through the internet on which [the] overwhelming majority of ticket transactions are conducted. . . .

The Department is in the process of finalizing an internal control plan for this program. As part of that process, the Department has implemented a notification system whereby licensees will be notified annually of their pending expiration dates. Further, since this audit was completed, the Department has created a new form to be filled out at the place of business to gather information about the company's business practices, tickets bought and sold prices.

With regard to the failure to provide written justification for licensing two individuals for whom the CORI check came back with results . . . the Department does not specifically recall these two cases. It reaffirms its commitment to providing written justification if the CORI comes back with results, and will continue to monitor this matter to ensure that it does happen.

With regard to the verification of the Affidavits, the Department has modified its form to include contact information and will begin random verification of affidavits to ensure authenticity. . . .

The Department acknowledges that it does not regularly conduct compliance visits to ticket resellers due to lack of resources and the fact that the vast majority of them are not brick and mortar storefronts.

Auditor's Reply

Based on its response, DPS is taking measures to address many of our concerns on this matter. However, we again recommend that the department consider site visits to monitor ticket resellers and ensure that tickets are being resold at fair and reasonable prices.

7. DPS's revenue records are inconsistent with information it has recorded in the Commonwealth's accounting system.

For fiscal years 2011 and 2012, DPS's revenue records did not agree with revenue amounts it recorded in MMARS. Specifically, for fiscal year 2011, DPS's recorded amount of received revenue was \$195,808 more than what it recorded in MMARS, and during fiscal year 2012, its recorded revenue was \$202,774 less than what it recorded in MMARS. Inconsistency and possible errors in recording cash receipts in the DPS databases create an opportunity for errors or misuse of funds to

go undetected for multiple years and have a material effect on the accuracy of revenue being reported in MMARS.

Our test of DPS's controls over the cash receipt process included a review of 31 of 1,774 transactions for ticket resellers and amusement licenses, permits, and inspections processed in fiscal years 2011 and 2012. Although daily bank deposits and reconciliations were being performed, individual payments could not be reconciled to MMARS because cash receipt transactions were processed in monthly batches without identifying individual payments. Additionally, original signatures were missing for two of the cash receipt forms reviewed, and no reconciliation between cash receipts and MMARS was completed for fiscal year 2011. As a result of this test, we determined the revenue discrepancies between the DPS internal databases and what was reported in MMARS.

The table below depicts some of the DPS revenue sources that pertained to the business areas included in this audit. In each instance, our analysis showed variances between DPS's internal records and revenue reported to MMARS.

Table 5

| Business Area | Fiscal Year 2011 | | Fiscal Year 2012 | |
|---------------|--------------------|---------------|--------------------|---------------|
| | Internal Databases | MMARS | Internal Databases | MMARS |
| Elevators | \$ 12,908,062 | \$ 12,641,983 | \$ 15,327,860 | \$ 15,349,025 |
| Amusements | 73,690 | 71,895 | 96,660 | 80,410 |
| Licenses | \$ 5,448,892 | \$ 5,746,272 | \$ 5,981,753 | \$ 6,194,612 |

Authoritative Guidance

OSC's MMARS Accounts Receivable Cash Recognition and Reconciliation Policy, last revised November 1, 2006, states, in part,

Daily system assurance must be performed by departments to ensure that there is a matching deposit for each cash transaction. This process involves comparing the results from all sources that produce or contain payments and deposit information, and ensuring that they match. These information sources should include any delegated system reports, all relevant MMARS tables and/or reports, and Information Warehouse⁵ reports. Departments needing assistance in establishing system assurance procedures should contact [OSC's] Revenue Bureau.

⁵ The Commonwealth's Information Warehouse is an integrated repository of financial, budgetary, human-resource, payroll, and time reporting information.

Reasons for Inconsistent or Inaccurate Reporting

DPS performed daily reconciliations between its own cash receipts and bank deposits. However, DPS lacked sufficient internal controls for the receipt, recording, and reporting of revenue to MMARS and did not make daily reconciliations between the internal databases and MMARS as required by OSC policy.

DPS officials acknowledged that there had been issues with generating reliable reports from DPS's databases and that therefore reconciliations were not made between the internal databases and MMARS as required by OSC policy. Additionally, adjustments are not made in the databases to reflect bad checks and refunds. Though documentation of bad checks and refunds is maintained, there is no procedure in place to track these adjustments to individual accounts.

Recommendations

- DPS should perform an immediate reconciliation of its fiscal year 2011 cash receipts to MMARS to determine that all revenue was collected and reported to the Commonwealth.
- DPS should reconfigure its internal daily reconciliation of cash receipt balances to include a ledger for non-automated revenue receipts (i.e., walk-in and mail-in payments) and maintain a detailed list of refunds and bad checks in order to track adjustments to individual accounts.
- DPS should remit cash receipts (transactions) to MMARS in a timely manner. DPS should complete cash receipt transactions daily to help facilitate the reconciliation process.
- DPS should strengthen its internal controls to include a formal cash receipt and reconciliation process.

Auditee's Response

DPS's comments on this issue are excerpted below.

The Department performed a reconciliation of the bank statements and allocations of the receipts to MMARS. . . .

The Department recognizes the importance of reconciling every cent of the total amount of revenue it collects. Towards this end, the new inspection and permitting database will render many of the processes audited obsolete as the Department anticipates that the vast majority of transactions will be done on line with an electronic interface with MMARS for each transaction.

Until that time, however, the Department has taken measures to address the issues raised by the Report as follows:

- *The Department updated its MMARS security . . . so that only the CFO can submit cash receipts (CRs) to MMARS.*

- *The Department created an entirely new licensing division which separated out personnel from the cashiers' office from licensing personnel in order to focus the cashiers on the timely processing and reconciliation of receipts.*
- *Cashier personnel are required to run queries (MMARS data) to ensure that refunds are valid.*
- *The cash deposits are physically attached to the MMARS transactions as back up.*
- *CRs have been shortened to within a week of deposits. The Department does reconcile all cash received in the day and its allocation to revenue sources. . . .*

Further, since the audit, the Department now receives most of its license renewals through a lockbox . . . and many of the issues raised have been addressed.

The Department also implemented uploads of license payments to the license system (which tie to the license receipt report), and receives imaged lockbox elevator receipts. The CRs (MMARS cash receipts) are still performed daily in batches; however, the individual payment details for licensing are attached to each CR. Each CR has the reference to the deposit for other revenue that can be assessed if needed. Moving forward with the E-Licensing system will provide further assurance that each electronic payment interfaces with MMARS individually.

Adjustments are made in the license database to reflect bounced checks and refunds. [The My Licensing Software database] has that capability and it is utilized. Any bounced checks and refunds of receipts on the Department's antiquated system ("Foxpro") are made in a notes field. This has made the reconciliation of refunds and bad checks between the databases and MMARS a challenge; however, once the E-Licensing and permitting and inspection system are implemented, this will not be an issue.

Auditor's Reply

Based on its response, DPS is taking measures to address our concerns on this matter. However, we learned after the end of our audit fieldwork that the department's fiscal year 2011 reconciliation of cash receipts to MMARS had not yet been completed as DPS's response suggested. The department should complete its fiscal year 2011 reconciliation and notify OSC of the results; if necessary, any unaccounted-for variances, losses, shortages or thefts of funds should be reported to OSA in accordance with Chapter 647 of the Acts of 1989.