

Audit Report

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**Department of Labor, Licensing and Regulation  
Division of Labor and Industry**

March 2009

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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

March 16, 2009

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

Ladies and Gentlemen:

We have audited the Division of Labor and Industry (DLI) of the Department of Labor, Licensing and Regulation for the period beginning November 9, 2005 and ending October 13, 2008. DLI administers State laws that deal with employment issues, safety and health issues, prevailing wages, as well as safety inspections of amusement rides, boilers and pressure vessels, elevators and escalators, and railroads.

Our audit disclosed that DLI continues to have a significant backlog of overdue inspections of boilers, pressure vessels, and elevators. We have commented on this condition with respect to boilers and pressure vessels in each of our audit reports on DLI since 1977. In addition, proper internal controls were not in place over cash receipts. Furthermore, DLI did not always bill its debtors and refer related delinquent accounts receivable to the State's Central Collection Unit timely, in accordance with State regulations and reductions to certain penalties were not adequately documented.

DLI's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us by DLI personnel 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

## **Background Information**

### **Agency Responsibilities**

The Division of Labor and Industry (DLI) is a separate unit within the Department of Labor, Licensing and Regulation. The mission of DLI is to protect and promote the health, safety, and employment rights of Maryland's citizens. Specifically, DLI administers State laws that deal with employment issues, safety and health issues, prevailing wages, as well as safety inspections of amusement rides, boilers and pressure vessels, elevators and escalators, and railroads. According to the State's records, during fiscal year 2008, DLI had 188 authorized positions and operating expenditures totaling approximately \$13.8 million.

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

Our audit included a review to determine the status of the two findings contained in our preceding audit report dated April 24, 2006. We determined that DLI did not satisfactorily address these two findings and, therefore, these findings are repeated in this report.

## Findings and Recommendations

### Safety Inspections

#### **Finding 1**

**Safety inspections for boilers, pressure vessels, and elevators were not performed timely in accordance with State law. We have noted this condition regarding boilers and pressure vessels since 1977 and regarding elevators since 1997.**

#### **Analysis**

According to the Division of Labor and Industry's (DLI) records, which we tested and found to be reliable, DLI did not perform safety inspections of boilers, pressure vessels, and elevators timely as required by State law. Specifically, as of October 2008, inspections for 10,978 of the 55,213 boilers and pressure vessels (20 percent) were overdue. For example, DLI's records indicated that 2,102 of these inspections were between one year and two years overdue and 3,763 of these inspections were more than two years overdue. DLI's records as of October 2008 also indicated that inspections for 5,557 of 20,988 elevators (26 percent) were overdue, with 2,971 of these inspections being from 91 days to one year overdue and 116 being more than one year overdue.

DLI is responsible for ensuring the periodic inspection of boilers, pressure vessels, and elevators and related devices (such as escalators) in accordance with Title 12 of the Public Safety Article of the Annotated Code of Maryland. This equipment is generally required to be inspected annually. In many instances (for example, 66 percent as of October 2008), insurance company inspectors, trained and certified by DLI, were responsible for conducting boiler and pressure vessel inspections. Generally, DLI was directly responsible for inspecting the remaining boilers and pressure vessels as well as elevators. The aforementioned overdue boiler and pressure vessel inspections are attributable to inspections to be performed by both insurance companies and by DLI directly.

In each of our audit reports since 1977, we have commented that DLI had not ensured that boilers and pressure vessels were inspected within the time periods specified by law. A similar condition regarding overdue elevator inspections has appeared in our audit reports since 1997. We have again been advised by DLI that inspections, for which it was directly responsible, were not conducted in accordance with the aforementioned laws primarily because of staffing shortages. The 2008 *Joint Chairmen's Report* commented upon the persistent vacancies that have resulted in the backlog of inspections. In this regard, the legislative committees requested, and DLLR completed, a review of the salary structure of

safety inspection positions within DLI, specifically boiler inspection positions. Also, as requested by the aforementioned committees, DLI appealed to the Department of Budget and Management – Office of Personnel Services and Benefits (OPSB) for reclassification of its inspection positions to aid in employee retention. As a result of this appeal, OPSB increased the salary of certain DLI inspection positions by two salary grades effective July 1, 2008.

**Recommendation 1**

**We recommend that DLI**

- a. eliminate its inspection backlog (repeat), and**
- b. maintain the inspection process on a current basis in accordance with the provisions of the law (repeat).**

**Cash Receipts**

**Finding 2**

**Adequate internal controls had not been established over cash receipts.**

**Analysis**

Cash receipts were not adequately verified to deposit during our audit period. Specifically, an employee who was not independent of the cash receipts function performed the deposit verification, and the deposit was not verified to the initial record of receipt. Consequently, there was a lack of assurance that all collections were deposited. We also noted that these verifications were not documented. According to State records, during fiscal year 2008, DLI processed collections totaling approximately \$2.6 million.

The Comptroller of the Treasury’s *Accounting Procedures Manual* requires that a reconciliation of cash receipts recorded on check logs to amounts deposited be performed by an employee independent of the cash receipts functions.

**Recommendation 2**

**We recommend that**

- a. an employee independent of the cash receipts function verify all recorded collections to subsequent deposit,**
- b. the initial record of collections be used in the deposit verifications, and**
- c. the verifications be documented.**

**We advised DLI on accomplishing the necessary separation of duties using existing personnel.**

## Accounts Receivable

### **Finding 3**

**DLI did not always bill debtors and refer delinquent accounts to the State's Central Collection Unit in a timely manner.**

### **Analysis**

DLI did not always bill debtors and refer delinquent accounts to the State's Central Collection Unit (CCU) in a timely manner, as required by State regulations. Specifically, our test of 7 outstanding accounts for occupational safety and health penalties totaling \$57,000 disclosed that, for 3 of the accounts totaling \$25,000, DLI issued bills at intervals ranging from 82 to 299 days. In addition, for all 7 of the accounts tested, DLI waited 34 to 312 days after the dates required before transferring these delinquent accounts to CCU. The collectability of outstanding accounts diminishes as the accounts increase in age.

CCU's regulations require that agencies issue billings on unpaid accounts at 30-day intervals. These regulations also require that agencies transfer accounts to CCU within 75 days of the original demands for payment when debtors fail to positively respond to the demands. According to DLI's records, in fiscal year 2008, collections for occupational safety and health penalties totaled approximately \$1.7 million and, as of October 30, 2008, the related accounts receivable balance was \$14,800. During the period from January 2006 to November 2008, DLI referred cases with balances totaling approximately \$420,000 to CCU. DLI's failure to refer delinquent accounts to CCU in a timely manner was commented upon in our three preceding audit reports and its failure to issue demands for payment at prescribed intervals was commented upon in our preceding audit.

### **Recommendation 3**

**We recommend that DLI**

- a. transfer delinquent accounts to CCU for collection assistance in a timely manner (repeat); and**
- b. issue demands for payment at the proper intervals, as required by State regulations (repeat).**

**Finding 4**

**Reductions to certain penalties assessed by one DLI program were not adequately documented.**

**Analysis**

Reductions to the penalty amounts assessed by the Maryland Occupational Safety and Health (MOSH) Program for occupational safety and health violations were not adequately documented. Our test of five reductions totaling \$54,972 disclosed that, for three of the reductions totaling \$26,012, there was no documentation in the case file to substantiate the applicable reduction.

The MOSH Compliance Unit is responsible for ensuring that employers comply with the provisions of the MOSH Act to provide a safe and healthful workplace for employees. On-site inspections are conducted by DLI to identify hazardous conditions and secure the timely correction of the condition. Failure on the part of the employer to comply with the MOSH law or regulations may result in the issuance of citations as well as the imposition of civil penalties. In addition, DLI policy establishes a penalty reduction schedule that must be adhered to. According to DLI records, in fiscal year 2008, reductions to the original citation amounts totaled approximately \$1.4 million.

**Recommendation 4**

**We recommend that the reductions to assessed penalties be adequately documented in the case file.**

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

We have audited the Division of Labor and Industry (DLI) of the Department of Labor, Licensing and Regulation for the period beginning November 9, 2005 and ending October 13, 2008. 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 DLI's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the status of the findings contained in our preceding audit report.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of DLI'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 DLI by the Department of Labor, Licensing and Regulation – Office of the Secretary. These support services (such as payroll, purchasing, data processing, maintenance of accounting records, and related fiscal functions) are included within the scope of our audits of the Office of the Secretary.

Our audit did not include an evaluation of internal controls for federal financial assistance programs and an assessment of DLI's compliance with federal laws and regulations pertaining to those programs because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including DLI.

DLI's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

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

The response from the Department of Labor, Licensing and Regulation, on behalf of DLI, 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.

APPENDIX

**DLLR**

STATE OF MARYLAND

DEPARTMENT OF LABOR, LICENSING AND REGULATION

MARTIN O'MALLEY, Governor  
ANTHONY G. BROWN, Lt. Governor  
THOMAS E. PEREZ, Secretary

OFFICE OF THE SECRETARY

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March 10, 2009

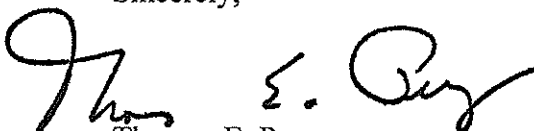
Mr. Bruce A. Myers, CPA  
Legislative Auditor  
Department of Legislative Services  
301 West Preston Street, Room 1202  
Baltimore, MD 21201

Dear Mr. Myers:

Attached is the response to your letter dated February 23, 2009, regarding the audit of the Department of Labor, Licensing and Regulation - Division of Labor and Industry, for the period beginning November 9, 2005 and ending October 13, 2008.

Per your request, an electronic copy and paper copy is being submitted. Should you have any questions or concerns regarding our response, please contact Adam Ortiz, Director of Compliance and Audit at (410) 230-6242 or [aortiz@dllr.state.md.us](mailto:aortiz@dllr.state.md.us).

Sincerely,



Thomas E. Perez  
Secretary

Attachment

Cc: Adam Ortiz, Director of Compliance and Audit  
Ron DeJuliis, Commissioner, Division of Labor and Industry



## **Response of DLLR Division of Labor and Industry to 2009 Legislative Audit**

### **Finding 1**

**Safety inspections for boilers, pressure vessels, and elevators were not performed timely in accordance with State law. We have noted this condition regarding boilers and pressure vessels since 1977 and regarding elevators since 1997.**

### **DLI RESPONSE**

DLI has applied a tremendous amount of effort to eliminate the backlog. We have analyzed the workload and adjusted inspector efficiencies to their maximum potential. This has resulted in monthly average reductions of approximately 4%.

In recognition that the best way to eliminate the backlog is to better leverage third party resources, we have initiated action to change the current untenable system. So far, building owners may volunteer to utilize third party inspectors for elevator inspections and boiler inspections, but tend not to because DLLR performs the inspection for free. Legislation introduced during the 2009 Session of the General Assembly (HB 613 and SB 561) requires that owners utilize the services of the authorized third party inspectors to perform common inspections. We expect that this change will result in a tremendous reduction in overdues, as our inspectors can focus on higher risk safety inspections and perform oversight of third party inspections.

### **Finding 2**

**Adequate internal controls had not been established over cash receipts.**

### **DLI RESPONSE**

The Commissioner has assigned a specific staff person the task of verifying that all recorded collections are deposited for DLI programs. She will report any irregularities to the Deputy Commissioner upon finding. We have purchased "DEPOSIT ONLY" stamps, along with serial numbered receipts, for all MOSH Regional Offices along with instructions on how they are to be used.

### **Finding 3**

**DLI did not always bill debtors and refer delinquent accounts to the State's Central Collection Unit in a timely manner.**

### **DLI RESPONSE**

DLI utilizes several independent systems to track accounts receivable. The Safety Inspection Unit has two systems that are soon to be combined and MOSH has developed and implemented a

new system to track all accounts receivables. The previous established system was not sustained following a change in program leadership.

In order to meet the time requirements for sending collection letters to employers and referring delinquent cases to CCU, DLI has had MOSH streamline the process flow of case files through the Baltimore Office. The goal is that each case will enter the process flow immediately upon receipt: the back log of case files will be eliminated so cases are processed in “real time”. Compliance will be achieved through a strategy of greater program oversight and performance review.

This action will help DLI stay on track to ensure that the accounts receivable control account is independent of the detail records and will provide for periodic reconciliation of the control account balance against the aggregate balance of the detail records. We have also complied with your recommendation to document the reconciliation and retain it for future reference. DLI will once again reemphasize and train individuals regarding strict compliance with Central Collection Unit regulations regarding transfer of delinquent accounts to the Unit for collection assistance, including issuing demands for payment at prescribed intervals established by CCU. We intend to establish individual performance elements for compliance in this area and work with CCU to eliminate delays in account acceptance.

**Finding 4**

**Reductions to certain penalties assessed by one DLI program were not adequately documented.**

**DLI RESPONSE**

MOSH has adopted a new Informal Conference Memorandum (report) specifically developed to indicate the amount of the penalty adjustment. The document includes a table showing the penalty adjustment categories and reduction percentages, and the additional reduction for immediate payment. The Informal Conference Conferee will highlight all applicable reduction categories applied to the penalty.

The document also provides for a summary to explain reclassification, deletion, additional penalty reduction, and the reasons for such adjustment.

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