

Audit Report

**Department of Labor, Licensing and Regulation
Division of Occupational and Professional Licensing**

October 2008



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

October 6, 2008

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

Ladies and Gentlemen:

We have audited the Division of Occupational and Professional Licensing (DOPL) of the Department of Labor, Licensing and Regulation for the period beginning October 1, 2004 and ending August 31, 2007. DOPL consists of 22 boards and commissions, each of which is funded either by general funds or by license fees from the specific professional or trade groups regulated.

Our audit disclosed that DOPL needs to improve its accountability and control over collections received by five boards and commissions. DOPL should also establish additional controls over the Home Improvement and Real Estate Guaranty Funds which, according to the State's accounting records, had June 30, 2007 cash balances of \$2.1 and \$2 million, respectively. Specifically, accounts receivable and/or cash balance records were not maintained for these Funds. In addition, documentation supporting the propriety of disbursements from the Home Improvement Guaranty Fund was frequently missing from DOPL records. Our audit further disclosed that the basis for the annual allocation of DOPL administrative costs to the special funded (self-supporting) boards was not adequately documented. Finally, two licensing issues were noted, including the need for more timely verification of continuing professional education for renewal licenses, and the repeated failure to establish the legally mandated Elevator Safety Review Board.

An Executive Summary of our findings can be found on page 5. The Department of Labor, Licensing and Regulation – Office of the Secretary's response, on behalf of DOPL, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during this audit by DOPL.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

Table of Contents

Executive Summary	5
Background Information	7
Agency Responsibilities	7
Status of Findings From Preceding Audit Report	7
Findings and Recommendations	9
Cash Receipts	
* Finding 1 – Adequate Accountability and Control Had Not Been Established Over Certain Collections	9
Guaranty Funds	
* Finding 2 – Certain Accounts Receivable Records and Cash Balance Control Accounts Were Not Maintained	11
Finding 3 – Documentation for Disbursements from the Home Improvement Guaranty Fund Was Not Always Maintained	12
Allocation of Costs	
Finding 4 – Documentation of the Basis for Certain Cost Allocations to Its Boards and Commissions Was Not Maintained	13
Licensing	
* Finding 5 – Audits of Continuing Education Requirements for Certain Renewal Licenses Was Not Comprehensive or Timely	13
Elevator Safety Review Board	
* Finding 6 – Elevator Mechanics and Contractors Were Not Licensed As Required by State Law	14
Audit Scope, Objectives, and Methodology	17
Agency Response	Appendix

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

Executive Summary
Legislative Audit Report on the
Department of Labor, Licensing and Regulation
Division of Occupational and Professional Licensing (DOPL)
October 2008

- **Adequate accountability and control had not been established to ensure that certain collections were ultimately deposited and that the associated licenses were issued only after the required fees had been collected.**

DOPL should take the recommended actions to establish adequate accountability and control over all collections.

- **Accounts receivable records and/or cash balance control accounts were not maintained for two Guaranty Funds, which had cash balances totaling \$4.1 million as of June 30, 2007. In addition, documentation to support the propriety of certain disbursements from one of these Funds was not always maintained, and certain delinquent accounts were not submitted to CCU, as required.**

DOPL should maintain accounts receivable records and cash balance control accounts for its Guaranty Funds. In addition, documentation supporting the propriety of disbursements should be maintained and delinquent accounts should be submitted to CCU, as required.

- **DOPL could not document the basis for its allocation of administrative costs to its boards and commission.**

DOPL should maintain adequate documentation supporting an appropriate and equitable allocation of costs to its boards and commissions.

- **Audits of continuing education requirements for renewal licenses were not always conducted in a timely manner, and DOPL did not evaluate the results of such audits and take appropriate action.**

DOPL should establish and comply with a formal policy specifying the frequency of audits of continuing education requirements and the number of licensees to be audited. Guidance specifying recommended actions to be taken against noncompliant licensees should also be established.

- **DOPL did not license elevator mechanics and contractors, as required by State law, effective October 1, 2001.**

DOPL should license elevator mechanics and contractors, as required.

Background Information

Agency Responsibilities

The Division of Occupational and Professional Licensing (DOPL) of the Department of Labor, Licensing and Regulation (DLLR) consists of 22 boards and commissions. These boards and commissions license, regulate, and monitor various professions and trades. According to DLLR's 2008 annual report, DOPL oversees more than 200,000 licensees. Furthermore, according to the State's records, DOPL's expenditures for fiscal year 2007 totaled approximately \$8.3 million. The funding source for \$5.1 million of these expenditures was general funds and the remaining \$3.2 million was funded from licensing and exam fees.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the six findings contained in our preceding audit report dated May 2, 2005. We determined that DOPL satisfactorily addressed two of these findings. The remaining four findings are repeated in this report.

Findings and Recommendations

Cash Receipts

Finding 1

Adequate accountability and control had not been established over certain collections.

Analysis

The Division of Occupational and Professional Licensing (DOPL) had not established adequate accountability and control over collections for all five of the boards and commissions that we tested. According to DOPL's records, the boards and commissions collected \$894,000 during fiscal year 2007, of which these five boards and commissions collected \$590,000. These receipts were subsequently forwarded to the Department of Labor, Licensing and Regulation (DLLR) – Office of the Secretary for further processing and deposit. The collections of the boards and commissions excluded receipts received through the DLLR online licensing system and via the lockbox account, both of which were processed by DLLR – Office of the Secretary. Our review disclosed the following conditions:

- Two of the boards and commissions did not record collections immediately upon receipt. The prompt recordation of receipts helps to provide proper accountability and control over collections.
- Two employees, who eventually recorded the collections for all five boards and commissions, also had the ability to process and approve licenses online through DOPL's automated licensing system.
- Collections were not adequately secured. Specifically, after initial receipt and processing, collections from all five boards and commissions were forwarded to DOPL's central licensing unit, where they were placed in a mail bin and were accessible to unauthorized DOPL employees while awaiting further processing and deposit preparation.
- Four of the boards and commissions reviewed did not perform independent verifications to ensure that all recorded collections were subsequently forwarded to the Office of the Secretary for further processing and deposit.

Because of these deficiencies, assurance was lacking that all collections received were ultimately deposited, and that licenses were issued only after the required fees had been collected. The conditions concerning the initial recordation of

collections, the verification that recorded collections were forwarded to the Office of the Secretary, and the ability of certain employees to record collections and process licenses have been commented upon in our three preceding audit reports.

Recommendation 1

We again recommend that collections be recorded immediately upon receipt and that employees who record collections be independent of the license application processing function. In addition, we also recommend that DOPL ensure that all collections are adequately secured. Finally, we again recommend that employees independent of the cash receipts function verify that all recorded collections were subsequently forwarded to the Office of the Secretary for further processing and deposit. We advised DOPL on accomplishing the necessary separation of duties using existing personnel.

Guaranty Funds

Background

The Home Improvement Guaranty Fund and the Real Estate Guaranty Fund were established by State law to compensate individuals who are financially injured because of faulty work performed by a licensed home improvement contractor or because of the wrongful acts of a licensed real estate broker or salesperson, respectively. A portion of each license application fee (for example, \$100 for a contractor license) is credited to the applicable Fund. In accordance with State law, the Home Improvement and Real Estate Commissions, which administer these Funds, require that the licensees responsible for these losses reimburse the Funds for amounts paid plus interest, as ordered by the Commissions. Generally, the claimant presents his or her claim and evidence to an Administrative Law Judge of the Office of Administrative Hearings (OAH), and a recommended award amount is made to the applicable Commission, which may affirm or change the recommendation, and which pays the claim from the Fund. The Commissions may also impose monetary penalties for certain violations. According to the State's accounting records, as of June 30, 2007, the cash balances in the Home Improvement Guaranty Fund and the Real Estate Guaranty Fund totaled approximately \$2.1 million and \$2 million, respectively.

Finding 2**DOPL did not maintain certain accounts receivable records and cash balance control accounts.****Analysis**

DOPL did not maintain accounts receivable records for the Home Improvement Guaranty Fund and did not always ensure that delinquent accounts were referred to the Department of Budget and Management's Central Collection Unit (CCU) for further collection efforts. Specifically, DOPL did not maintain detailed accounts receivable records and a related control account for reimbursements due the Guaranty Fund from licensed home improvement contractors for claims paid on their behalf and for penalties assessed against them for violations of State law. During fiscal year 2007, DOPL's records indicated that approximately \$1.5 million in claims were paid to homeowners from this Guaranty Fund. In December 2007, we conducted a test of 10 accounts, totaling \$136,391, for which contractors were delinquent in reimbursing the Guaranty Fund for claims paid. Our test disclosed that there was no documentation that 3 accounts, totaling \$41,630, were submitted to CCU for further collection efforts. These claims had been paid during the period from September 2005 through July 2006. CCU regulations, as amended for DOPL, require that the accounts of contractors that fail to reimburse the Guaranty Fund within 30 days of a final order be forwarded to CCU after that 30-day period. Based on our tests, the final order is usually two weeks prior to the date of payment to the homeowner from the Fund.

In addition, as of December 2007, DOPL had not established cash balance control accounts for the Home Improvement Guaranty Fund and for the Real Estate Guaranty Fund. Consequently, DOPL could not periodically reconcile the cash balances of these Funds with the State's accounting records to ensure that all transactions were properly accounted for and recorded.

The failure to maintain accounts receivable records and cash control accounts was commented on in our preceding audit report.

Recommendation 2

We again recommend that DOPL establish and maintain detail accounts receivable records and a related control account for amounts due the Home Improvement Guaranty Fund. In addition, we recommend that DOPL ensure that delinquent accounts are forwarded to CCU, as required. We also again recommend that DOPL establish and maintain cash balance control accounts for both the Home Improvement and Real Estate Guaranty Funds, and periodically reconcile the Funds' control account balances with the State's accounting records.

Finding 3**DOPL did not maintain adequate documentation for certain disbursements from the Home Improvement Guaranty Fund.****Analysis**

DOPL did not maintain adequate documentation for certain disbursements from the Home Improvement Guaranty Fund. During fiscal year 2007, disbursements from the Home Improvement Guaranty Fund totaled approximately \$1.5 million, according to DOPL records.

Our test of 50 disbursements totaling \$513,158 disclosed that DOPL could not locate case files for 17 of the 50 cases selected for testing. These 17 cases resulted in payments totaling \$161,279 from the Fund. As a result of our request, copies of the recommended decisions from OAH and the related orders from the Home Improvement Commission were subsequently obtained from OAH for 15 of the 17 cases. Neither DOPL nor OAH could locate a recommended decision for the remaining 2 cases, for which claim payments totaling \$30,000 were made during fiscal year 2006. DOPL personnel advised us that Fund disbursements are based on Home Improvement Commission orders but that, in these instances, the case files might have been destroyed since the files are shredded three years after the initial dates of the claims. State law requires that State agency financial records be maintained at least through the completion of the legislative audit process, which generally occurs every three years. Since the awards may be paid several years after the claims are filed, these documents should have been maintained.

Recommendation 3

We recommend that DOPL investigate the aforementioned awards that lacked adequate documentation to ensure that they were proper. We also recommend that DOPL maintain adequate supporting documentation for all payments made from the Home Improvement Guaranty Fund for audit verification.

Allocation of Costs

Finding 4

DOPL lacked documentation to support the propriety of the method used to allocate certain administrative costs to its boards and commissions.

Analysis

DOPL could not adequately support its basis for the allocation of approximately \$600,000 in DOPL administrative costs to its boards and commissions for fiscal year 2007; this amount represents half of the total annual administrative costs allocated for that period. Although DOPL advised us that these administrative costs were allocated among the boards and commissions in relation to their staffing levels, it could not provide documentation to support this claim.

The failure to ensure the propriety of the process used to allocate these administrative costs results in the inability to assess whether the revenues generated from licensing activities are sufficient to cover the actual documented direct and indirect costs for the related boards and commissions to fulfill their duties.

Recommendation 4

We recommend that DOPL ensure that its allocation of administrative costs to the boards and commissions is based on an appropriate and equitable allocation of such costs, and that the related supporting documentation is retained.

Licensing

Finding 5

For two of its boards and commissions, DOPL did not always conduct timely audits of continuing education for renewal licenses, or take appropriate follow-up actions.

Analysis

Our review of one board and one commission, both of which required their licensees to obtain continuing education, disclosed that DOPL did not always conduct timely audits of such requirements for renewal licenses, evaluate the results of such audits, and take appropriate follow-up actions. Furthermore, neither the board nor the commission had established a formal policy specifying the frequency of such audits and the number of licensees to be reviewed during

each audit. In addition, DOPL had not established guidance specifying recommended actions to be taken against the licensees of this board and this commission who failed to comply with continuing education requirements.

As of December 2007, the aforementioned board had not audited the continuing education requirements for any of its licensees who renewed their licenses subsequent to December 2005. Although the aforementioned commission conducted audits of continuing education requirements during calendar year 2007 for licenses renewed during calendar years 2005 and 2006, according to DOPL's records, about half of the commission's license renewals audited lacked proof of required continuing education requirements, yet no follow-up action was taken.

In our preceding audit report, we commented that DOPL had not conducted certain audits of continuing education requirements for renewal licenses issued by this same board and this same commission, and had not established a policy specifying the frequency for conducting such audits. State law specifies the continuing education requirements that must be met by licensees of this board and this commission prior to receiving license renewals. According to DOPL's records, during fiscal year 2007, approximately 74,000 licenses (which are valid for two years) were issued for these two entities.

Recommendation 5

We again recommend that DOPL establish, and comply with, a formal written policy specifying the frequency (for example, annually) of audits of continuing education requirements and the number of licensees to be audited. We further recommend that DOPL establish and comply with written guidance specifying recommended actions to be taken against licensees from the aforementioned board and commission who fail to comply with continuing education requirements.

Elevator Safety Review Board

Finding 6

DOPL did not comply with established legislation that required elevator mechanics and contractors to be licensed.

Analysis

DOPL did not comply with provisions of the Public Safety Article, Section 12-826 of the Annotated Code of Maryland, effective October 1, 2001, requiring the Elevator Safety Review Board to license and regulate elevator mechanics and contractors operating within the State. As of June 2008, DOPL had applications

on hand from individuals who applied for a license prior to January 2005; however, DOPL had not processed any of the applications to determine if the individuals met licensing qualifications, nor issued any licenses or collected any related licensing fees.

While we were advised by DOPL management personnel that they had continually requested funding to implement a process to comply with the licensing requirement, sufficient funding was not received until the 2008 Legislative Session, which approved funding for fiscal year 2009. A similar condition was commented upon in our preceding audit report.

Recommendation 6

We again recommend that elevator mechanics and contractors be licensed as required by State law.

Audit Scope, Objectives, and Methodology

We have audited the Division of Occupational and Professional Licensing (DOPL) of the Department of Labor, Licensing and Regulation for the period beginning October 1, 2004 and ending August 31, 2007. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine DOPL'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 included 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, inspection of documents and records, and observation of DOPL'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 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 scope was limited with respect to DOPL's cash transactions because the Office of the State Treasurer was unable to reconcile the State's main bank accounts during a portion of the audit period. Due to this condition, we were unable to determine, with reasonable assurance, that all DOPL cash transactions prior to July 1, 2005 were accounted for and properly recorded on the related State accounting records as well as the banks' records.

DOPL'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 DOPL'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 DOPL that did not warrant inclusion in this report.

The Department of Labor, Licensing and Regulation – Office of the Secretary's response, on behalf of DOPL, 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 Office of the Secretary 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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October 2, 2008

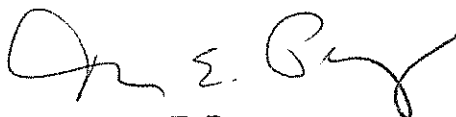
Mr. Bruce A. Myers, CPA
Legislative Auditor
Department of Legislative Services
301 West Preston Street, Room 1202
Baltimore, MD 21201

Dear Mr. Myers:

Enclosed is the response of the Department of Labor, Licensing and Regulation to the draft performance audit report on the Division of Occupational and Professional Licensing for the period October 1, 2004 through August 3, 2007. We especially recognize the need to assure that proper accounting and record keeping is maintained for our guaranty funds and that we address problems relating to documentation which have been noted in several areas.

We appreciate the professional and cooperative manner in which senior auditor Keonna M. Wiley and her team conducted the audit. Should you have any questions or concerns regarding the Department of Labor, Licensing and Regulation's response, please contact Adam Ortiz, Director of Compliance and Audit at (410)230-6242 or aortiz@dllr.state.md.us.

Sincerely,



Thomas E. Perez
Secretary

Enclosure

cc: Adam Ortiz, Director of Compliance and Audit
Stanley J. Botts, Commissioner
Harry Loleas, Deputy Commissioner



Response of DLLR-Division of Occupational and Professional Licensing to Audit Findings and Recommendations for the Legislative Audit for the period 10-1-04 to 8-31-07

Finding 1

Adequate accountability and control had not been established over certain collections.

Recommendation 1

We again recommend that collections be recorded immediately upon receipt and that employees who record collections be independent of the license application processing function. In addition, we also recommend that DOPL ensure that all collections are adequately secured. Finally, we again recommend that employees independent of the cash receipts function verify that all recorded collections were subsequently forwarded to the Office of the Secretary for further processing and deposit. We advised DOPL on accomplishing the necessary separation of duties using existing personnel.

DOPL Response:

A) Immediate recordation of collections-The findings reported that two of twenty two Boards and Commissions did not record all collections immediately upon receipt. The Division strives to assure that all constituent units comply with this important audit mandate. The two units not in compliance have been put on notice to immediately comply and will be subject to internal audit in this connection until further notice.

B) Collections/License Approval-In order to eliminate the conflict the duties will be apportioned among three separate employees in the Central Licensing Unit. Deposit sheets will be prepared by employee one. Deposit related data entry will be performed by a second employee, who will have authority to data screen 9 for this purpose. License issuance will be handled by a third employee who will have authority to screen 6. Back up will be provided by the Unit Supervisor.

C) Secured Collections-In light of this item, procedures have been changed. The mail bin is no longer used. Collections are kept in a lockable cash box which itself is kept in a lockable overhead unit in the least accessible area of the Central Licensing Unit. Board/Commission staff has been directed to place daily collections directly in the hands of an employee of the Central Licensing Unit only.

D) Independent Verifications-DOPL does not dispute this finding. Historically, DOPL units have not separately recorded checks returned to the sender or checks forwarded to the bank lock box. A meeting has been held with all units to fashion a documentation process for these checks which will allow the “independent” named employees to verify all checks handled on a given day against the initial recordation of receipts for that day.

Each unit will provide the Office of the Commissioner the name of the employee tasked with the responsibility for verifications.

Finding 2

DOPL did not maintain certain accounts receivable records and cash balance control accounts.

Recommendation 2

We again recommend that DOPL establish and maintain detail accounts receivable records and a related control account for amounts due the Home Improvement Guaranty Fund. In addition, we recommend that DOPL ensure that delinquent accounts are forwarded to CCU, as required. We also again recommend that DOPL establish and maintain cash balance control accounts for both the Home Improvement and Real Estate Guaranty Funds, and periodically reconcile the Funds' control account balances with the State's accounting records.

DOPL Response:

A) DOPL should establish detail AR records and related control account for the MHIC-DOPL

does not dispute the finding with respect to the failure to establish detailed accounts receivable records and a related control account for amounts due the Home Improvement Guaranty Fund. The appointment of a new Commission Executive Director in March has begun the process of addressing a number of administrative shortcomings which were in evidence across a spectrum of Commission activities. This finding can be addressed in concert with the reorganization of record keeping discussed in response to Finding 3. Proper maintenance of records with respect to Guaranty fund payouts, recoveries and referrals to central collection will facilitate the maintenance of the required receivables record. DOPL has a revised system in place. Staff of the Home Improvement Commission maintains the individual accounts receivable record and the DOPL Fiscal Officer maintains the related control account.

B) DOPL establish MHIC and REC Guaranty Fund Cash Balance Control

Accounts and perform periodic reconciliations to the state's Accounting Records-

The DLLR Office of Budget and Fiscal Services (OBFS) has maintained during the audit period what it had characterized as a control account with a monthly reconciliation. During the process of meeting with the senior auditor and audit manager, additional direction and guidance was received regarding aspects of the OBFS process which rendered it not compliant with the audit mandate for maintenance of a control account and periodic reconciliation. DOPL makes collections for both Funds through E-Licensing, bank lockbox processing and cash deposits. The cash deposit component was found most problematic. Accordingly, DOPL is working with OBFS to fashion a revised accounting process using appropriate source documents. DOPL will submit its revised process to the Office of Legislative Audits within 30days of the issuance of the audit for validation of the methodology.

Finding 3

DOPL did not maintain adequate documentation for certain disbursements from the Home Improvement Guaranty Fund.

Recommendation 3

We recommend that DOPL investigate the aforementioned awards that lacked adequate documentation to ensure that they were proper. We also recommend that DOPL maintain adequate supporting documentation for all payments made from the Home Improvement Guaranty Fund for audit verification.

DOPL Response:

DOPL does not dispute the fact that adequate documentation of guaranty fund disbursements were not maintained by the Home Improvement Commission and that there was an inconsistent documentation of the referral of accounts to the State's Central Collection Unit.

A) DOPL should investigate those awards for which there was inadequate documentation. The MHIC will make every effort to confirm that the awards in question were made correctly and in accordance with the provisions of the home improvement statute.

B) Maintain adequate supporting documentation. MHIC has altered its record keeping with respect to files for which there is a guaranty fund award. Files are separately maintained once an award is made and until the legislative auditor has had an opportunity to review those files. All delinquent accounts will be maintained in this group. In order to assure that appropriate documentation is maintained, the Division's fiscal officer will conduct a periodic audit of random files.

Finding 4

DOPL lacked documentation to support the propriety of the method used to allocate certain administrative costs to its boards and commissions.

Recommendation 4

We recommend that DOPL ensure that its allocation of administrative costs to the boards and commissions is based on an appropriate and equitable allocation of such costs, and that the related supporting documentation is retained

DOPL Response:

Allocation of administrative costs to the boards and commissions is based on a two part allocation of expenses. Fifty percent of administrative costs is allocated based on the number of licensees regulated by a Board and fifty percent based on the number of employees working for a Board. The portion based on licensees was fully documented and not the subject of comment. DOPL does not dispute that the portion of the allocation for FY 2007 was not properly documented. DOPL is committed to cost allocation being fair, accurate and transparent and will assure that all future allocations are accurately and completely documented. Allocation documentation for FY 2008 and FY 2009 DOPL administrative costs meets that standard.

Finding 5

For two of its boards and commissions, DOPL did not always conduct timely audits of continuing education for renewal licenses, or take appropriate follow-up actions.

Recommendation 5

We again recommend that DOPL establish, and comply with, a formal written policy specifying the frequency (for example, annually) of audits of continuing education requirements and the number of licensees to be audited. We further recommend that DOPL establish and comply with written guidance specifying recommended actions to be taken against licensees from the aforementioned board and commission who fail to comply with continuing education requirements.

DOPL Response:

A) Analysis and audit frequency recommendation. The auditor noted that the Real Estate Commission had not reported on the results of or follow up to the Commission's audit of 2005 and 2006 continuing education compliance. Since the departure of the audit team from DOPL the Real Estate Commission has acted to sanction non compliant licensees from 2005 and 2006 The auditor further noted the fact that the Board of Public Accountancy has not reported on its audit of 2005 CE compliance or undertaken the requisite audits of 2006 and 2007 compliance. A review of CPA Board files reveals that audit letters have been sent out covering calendar 2006 renewals. DOPL agrees that this record is not responsive to the mandate to assure that licensees are complying with CE requirements...

Without diminishing the importance of timely compliance with CE auditing requirements, the relatively labor intensive process of conducting CE audits in the context of the total array of statutory, regulatory and audit mandates places a real burden on those Boards and Commissions whose statutes require CE. Accordingly DOPL has advanced to implementation on or about 1/1/09, a plan to provide automatic audit notices as part of the electronic licensing renewal process. Each Board subject to CE would establish its sample size and the computer would generate audit notices daily to those

randomly selected. The notice would specify to the selected licensee what evidence of compliance must be provided and in what time frame. The notice would be generated as part of the confirmation screen after the renewal transaction has been completed, attested to and paid for. This technology based solution will allow CE audits to become part of each affected Board's daily work schedule, reduce the up front effort required, decrease the workload impact of the CE audit process in general and provide for real compliance with the audit requirement.

B) DOPL establish and comply with written guidance specifying recommended actions to be taken against licensees -Each Board/Commission has statutory disciplinary action authority with respect to an array of possible misconduct, including failure to comply with CE requirements. Each has the ability to suspend or revoke a license, reprimand a licensee and/or fine a licensee. DOPL does not have the legal standing to direct a Board or Commission to establish a written policy nor does it believe that it is appropriate to do so. However, DOPL has counseled individual Boards in the past with respect to the handling of continuing education compliance cases. It has recommended that each Board establish a broad set of parameters for considering these cases and sanctioning licensees. It has strongly advised the Boards to be consistent in the application of sanctions in similar type cases. DOPL will expand upon these verbal recommendations and provide written guidance to the Boards and Commissions that require CE specifying recommended actions to be taken against licensees.

Finding 6

DOPL did not comply with established legislation that required elevator mechanics and contractors to be licensed.

Recommendation 6

We again recommend that elevator mechanics and contractors be licensed as required by State law.

DOPL Response:

As was noted in the preceding legislative audit, the establishment of a new regulatory program is contingent on the appropriation of start-up funding. While DOPL had consistently requested the funding, none had been received through FY 2008. However, as enacted by the General Assembly, the FY 2009 budget for the Division does contain an appropriation to the Elevator Safety Review Board which will enable the Division to commence the implementation of licensing of elevator mechanics and contractors during the fall of 2008. In addition, the General Assembly enacted legislation altering the fund status of this program from general fund to special fund. This legislation creates an ongoing stream of special fund revenue that will assure that the direct and indirect costs of operating the regulatory program can be fully offset, subject to actual appropriation.

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