

Performance Audit Report

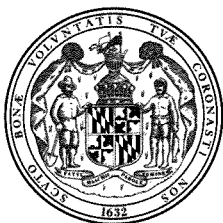
Video Lottery Operation Licensees
Minority Business Participation

May 2014



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

May 14, 2014

Karl S. Aro
Executive Director

Thomas J. Barnickel III, CPA
Legislative Auditor

Senator James C. Rosapepe, Co-Chair, Joint Audit Committee
Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

As required by Section 9-1A-34 of the State Government Article of the Annotated Code of Maryland, we audited the information submitted to the Maryland Lottery and Gaming Control Commission (MLGCC) through the Governor's Office of Minority Affairs (GOMA) by video lottery operation licensees on the attainment of minority business participation goals, and the licensees' efforts to maintain those goals. Our performance audit covered the licensees' construction and procurements for the Hollywood Casino Perryville, the Casino at Ocean Downs, the Maryland Live! Casino, the Horseshoe Baltimore Casino, and the Rocky Gap Casino for calendar year 2012.

Our evaluation of the minority business participation data, which were published in MLGCC's report for calendar year 2012, indicated that the data provided by the licensees were accurate. However, the information was incomplete. For example, minority business participation data reported did not include construction expenditure data for two licensees for all of calendar year 2012 because GOMA, which monitors licensees and reports minority business participation data to MLGCC, did not obtain comprehensive data from the licensees. Also, MLGCC had not established procedures to verify the data compiled and reported by GOMA.

Although some preliminary actions were taken, MLGCC had not established amended minority participation goals for each licensee as recommended by the Attorney General of Maryland. Therefore, MLGCC was unable to evaluate the performance of the licensees and ensure compliance with participation goals. Finally, the efforts taken by licensees to help achieve minority participation goals were not reported on by MLGCC, as required by law.

MLGCC's and GOMA's responses to this audit are included as an appendix to this report. We wish to acknowledge the cooperation extended to us during our audit by MLGCC and GOMA.

Respectfully submitted,

A handwritten signature in black ink, reading "Thomas J. Barnickel III". The signature is written in a cursive style with a large, stylized "T" and "B".

Thomas J. Barnickel III, CPA
Legislative Auditor

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Background Information

Video Lottery Facilities

During the 2007 special session, the General Assembly adopted legislation to license video lottery terminal (VLT) gaming in Maryland. In the November 2008 general election, the voters of Maryland ratified a constitutional amendment authorizing up to 15,000 VLTs in five locations in the State (Anne Arundel County, Baltimore City, Cecil County, Allegany County, and Worcester County). Upon approval of this constitutional amendment, the law which authorized the licensing of VLT gaming became effective.

During a 2012 special session, the General Assembly adopted legislation that increased the number of authorized VLTs to 16,500 to provide for VLTs at a sixth location in Prince George's County. This legislation also allowed VLT licensees to operate certain table games such as roulette, baccarat, blackjack, and poker.

The video lottery operation licenses required by law to operate a VLT facility are awarded by the Video Lottery Facility Location Commission. The Maryland Lottery and Gaming Control Commission (MLGCC) oversees VLT facility operations and owns or leases the VLT equipment. MLGCC is required to ensure that licensees comply with the regulatory framework of the VLT program, including minority business participation.

Status of Licenses

Licenses have been awarded to operate VLT casinos at all six locations. The casinos in Cecil, Worcester, Anne Arundel, and Allegany Counties began gaming operations on September 27, 2010, January 4, 2011, June 6, 2012, and May 22, 2013, respectively. The casinos in Baltimore City and Prince George's County, which were awarded licenses on July 31, 2012 and December 20, 2013, respectively, have not begun gaming operations.

Minority Requirements Studies

Section 4 of Chapter 4, Special Session, and Laws of Maryland 2007 required the Maryland Department of Transportation (MDOT), in consultation with the General Assembly and the Office of the Attorney General, to initiate two studies to evaluate the continued compliance of the minority participation requirements of Section 9-1A-10 of the State Government Article with any federal and constitutional requirements. The studies were also to evaluate race-neutral programs or other methods that could be used to address the needs of minority investors and minority businesses. The first study was submitted to the Legislative Policy Committee by the Secretary of MDOT with a

letter (dated August 9, 2011) to address the requirements of Chapter 4, Special Session, and Laws of Maryland 2007. In response to the completion of the first study, the Attorney General of Maryland advised on August 11, 2011 that a minority business participation program for VLT licensees could now be implemented in compliance with the VLT law.

The report of the second study was due to the Committee by September 30, 2013. In a letter dated November 20, 2013, the Secretary of MDOT notified the Legislative Policy Committee that the second study would not be completed. The letter stated that the 2011 study fulfills the obligations for the studies outlined in the law.

Minority Participation Requirements

Section 9-1A-10 of the State Government Article of the Annotated Code of Maryland specifies that, for construction and procurements related to the operation of VLTs, video lottery operation licensees must, at a minimum, meet the same minority participation requirements specified for State agencies in Title 14, Subtitle 3 of the State Finance and Procurement Article. According to this law, if the Governor's Office of Minority Affairs reports that a licensee is not in compliance with the minority participation requirements, MLGCC may take immediate action to ensure compliance of the licensee.

The request for proposals (RFP) issued in December 2008 by the Video Lottery Facility Location Commission delineated the minority participation goals, with overall goals of 25 percent for Allegany, Cecil, and Worcester counties, and 35 percent for Anne Arundel County and Baltimore City, and sub-goals for African-American and women-owned businesses. However, because of constitutionality issues, the Attorney General advised, on August 11, 2011, that the RFP provisions relating to these goals needed to be amended to set separate goals for each VLT facility and, where appropriate, for each separate contract of significant duration, scope, and size entered into by licensees. This advice also stated that these goals need to be based on the availability of minority businesses to perform the work at each location, and waivers must be available for instances in which a licensee is unable to meet the goals after making good faith efforts.

Governor's Office of Minority Affairs (GOMA)

Section 9-1A-10 of the State Government Article of the Annotated Code of Maryland requires GOMA to monitor licensees' compliance with the minority participation requirements and to report at least every six months to MLGCC on the licensees' compliance with the requirements. GOMA hired a private contractor to assist with the monitoring efforts and determinations of the minority participation levels achieved by the licensees. MLGCC uses the

information obtained from GOMA to prepare its annual report to the Governor and the General Assembly on the attainment of the minority business participation goals by the licensees and their efforts to maintain those goals. MLGCC's third report, which was for calendar year 2012, was issued on June 27, 2013.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the three findings contained in our preceding audit report, dated June 18, 2013. We determined that these findings were not satisfactorily resolved and are repeated in this report.

Audit Scope, Objectives, and Methodology

Scope and Objectives

Section 9-1A-34 of the State Government Article of the Annotated Code of Maryland requires the Office of Legislative Audits to annually audit and evaluate the information submitted by video lottery operation licensees to the Maryland Lottery and Gaming Control Commission (MLGCC) on the attainment of minority business participation goals specified for construction and procurements related to their operations and the efforts to maintain those goals. We conducted a performance audit to assess accuracy of the information reported by the video lottery operator licensees. We also assessed whether MLGCC established procedures to monitor the efforts of licensees to achieve minority participation goals. We have audited the information from the following video lottery operation licensees for calendar year 2012:

- Penn Cecil Maryland, Inc., licensed October 21, 2009 to operate 1,500 video lottery terminals (VLTs) at the Hollywood Casino Perryville (Cecil County).
- Ocean Enterprise 589, LLC, licensed September 23, 2009 to operate 800 VLTs at the Casino at Ocean Downs (Worcester County).
- PPE Casino Resorts Maryland, LLC, licensed December 7, 2009 to operate 4,750 VLTs at the Maryland Live! Casino (Anne Arundel County).
- Evitts Resort, LLC, licensed April 26, 2012 to operate 850 VLTs at the Rocky Gap Casino (Allegany County). On July 31, 2012 an addendum to the license was issued to reduce the number of VLTs to 500.
- CBAC Gaming, LLC, licensed July 31, 2012 to operate 3,750 VLTs at the Horseshoe Baltimore Casino (Baltimore City).

Our audit was performed 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.

Methodology

To accomplish our objectives, we interviewed employees of the licensees, the minority subcontractors, the Governor's Office of Minority Affairs (GOMA), and GOMA's contractor that assisted in collecting and reporting minority participation data and outreach efforts. We reviewed GOMA's and MLGCC's data collection process and reporting. We also evaluated the minority participation calculations for accuracy, and reviewed and tested the records of the licensees, including contractor classifications, expenditure data, invoices, and reports of minority participation levels and outreach efforts.

Our fieldwork was completed during the period from April through September 2013 with additional follow-up of certain issues in March 2014. A copy of the draft report was provided to MLGCC and GOMA. Their responses to our findings and recommendations appear as an appendix to this report. As prescribed in State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise MLGCC and GOMA regarding the results of our review of their responses.

Conclusions

Although some preliminary actions were taken, the Maryland Lottery and Gaming Control Commission (MLGCC) had not established amended minority participation goals for each video lottery terminal (VLT) licensee as recommended by the Attorney General of Maryland to address constitutionality issues. Therefore, MLGCC was unable to evaluate the performance of the licensees in achieving minority participation goals. Also, MLGCC did not undertake efforts to ensure that the minority participation results it received from the Governor's Office of Minority Affairs (GOMA) were reasonably complete and accurate.

For the licensees tested for the calendar year 2012 reporting period, the information provided to GOMA on minority contractor participation for construction and procurements related to the operation of VLT facilities was accurate. However, the information furnished to MLGCC by GOMA was not complete for annual reporting purposes. Specifically, GOMA did not calculate nor report minority business participation for 2012 construction activity for two licensees. Construction expenditures for these licensees each totaled \$1.3 million during 2012. In addition, GOMA did not verify the completeness and accuracy of total expenditure data reported which it used to determine minority participation levels achieved and reported to MLGCC. GOMA also did not furnish any information to MLGCC on the efforts of licensees to attain minority business participation goals and MLGCC took no efforts on its own in

this regard; accordingly, this information was not included in MLGCC's annual report to the Governor and the General Assembly as required by law.

Findings and Recommendations

Establishment of Minority Participation Requirements

Finding 1

Maryland Lottery and Gaming Control Commission (MLGCC) has not established amended minority participation goals for four of the video lottery terminal (VLT) licensees.

Analysis

As of March 11, 2014, MLGCC had not established amended minority participation goals for four of the five VLT licensees for construction and procurements related to the operation of VLT facilities. Consequently, without properly established goals, MLGCC could not assess licensees' performance in achieving minority participation requirements.

State law requires VLT licensees to meet the same minority participation requirements specified for State agencies. Consistent with the law, the request for proposals (RFP) issued in December 2008 by the Video Lottery Facility Location Commission delineated the overall minority participation goals for each location as either 35 percent or 25 percent. However, the Attorney General of Maryland advised in August 2011 that, to address constitutionality issues, MLGCC should amend the goals to set separate goals for each licensee, and perhaps for each contract, consider the proposed contract work and the availability of minority businesses to perform the work. The Attorney General also advised that waivers must be available for instances in which a licensee is unable to meet the goals after making a good faith effort.

In September 2011, MLGCC sent letters to VLT licensees requesting information about their prospective contracting and procurement needs for supplies, services, maintenance, construction, and other aspects of ongoing VLT operations. In May 2013, MLGCC established minority participation goals for the Baltimore City VLT facility in accordance with the Attorney General's August 2011 letter. However, as of March 11, 2014, the amended minority participation goals for each of the remaining four licensees had not been established. MLGCC advised that it has met with licensees to work toward establishing the goals but the process of setting the goals is complex and time consuming.

A similar condition was commented upon in our preceding audit report.

Recommendation 1

We recommend that MLGCC establish amended minority participation requirements for each VLT licensee and implement appropriate waiver provisions (repeat).

Reported Minority Participation

Finding 2

Governor's Office of Minority Affairs (GOMA) did not adequately monitor and report on video lottery licensees' minority participation. Also, MLGCC did not review the reported information to ensure that it was complete and accurate.

Analysis

GOMA did not adequately monitor and report on video lottery licensees' minority participation, and MLGCC did not review the information reported by GOMA to ensure that it was complete and accurate. MLGCC used the information it received from GOMA in its June 27, 2013 report for calendar year 2012 to the Governor and General Assembly on the VLT facilities.¹ Specifically, we noted the following conditions:

- GOMA did not verify the completeness and accuracy of total expenditure data reported by the licensees which it used to determine minority participation levels achieved.
- GOMA did not determine and report to MLGCC the minority participation for construction expenditures incurred during calendar year 2012 for the Horseshoe Baltimore Casino and the Rocky Gap Casino. According to the respective licensees' records, construction expenditures at the Horseshoe Baltimore Casino and Rocky Gap Casino, excluding exempt items (for example, government taxes, fees, and permits), each totaled approximately \$1.3 million during 2012.
- GOMA did not verify that licensees actually used Minority Business Enterprise (MBE) contractors for ongoing operations. Specifically, site inspections, such as site visits and inventory reviews, were not performed to ensure that MBE contractors actually provided the goods and services for ongoing operations.

¹ MLGCC only receives information on minority participation through the information the licensees provide to GOMA. MLGCC did not receive any minority participation information directly from any licensee.

- MLGCC did not review the information reported by GOMA for accuracy and completeness.

Similar conditions were commented upon in our preceding audit report.

The following information for the periods indicated was compiled by the Office of Legislative Audits (OLA) based on information provided by GOMA to MLGCC. For the periods reported, our tests concluded these data were accurate; however, as previously mentioned, these data were incomplete as related to certain construction activity.

MBE Participation Data Reported For Calendar Year 2012				
VLT Licensee	Type of Activity Reported	Period Reported ¹	Total Payments to MBEs for Period Reported	MBE Participations Calculated by OLA
Hollywood Casino Perryville	Operations	12/1/2011 to 12/31/2012	\$617,232	5.70%
Casino at Ocean Downs	Operations	12/1/2011 to 12/31/2012	\$249,718	2.87%
Maryland Live! Casino	Construction	12/1/2011 to 12/31/2012	\$52,892,401	25.33%
Maryland Live! Casino	Operations	6/6/2012 to 12/31/2012	\$501,903	1.99%

¹ MLGCC's 2011 annual report did not provide licensee data for December 2011; therefore, we included the December 2011 data in the activity reported for calendar year 2012.

Section 9-1A-10 of the State Government Article of the Annotated Code of Maryland requires that GOMA monitor each licensee's annual compliance with the minority participation requirements and that MLGCC ensure that the video lottery operation licensees comply with minority participation requirements. The Code also requires MLGCC to submit an annual report to the Governor and the General Assembly on these participation goals and efforts to maintain them. MLGCC, as part of the license requirements, can require licensees to provide information in specific formats and to have the information audited by an independent CPA firm.

Recommendation 2

We recommend that

- a. GOMA verify the completeness and accuracy of total expenditure data reported by the licensees (repeat);**
- b. GOMA report to MLGCC the complete licensee minority participation information, including both construction and operations activity (repeat);**
- c. MLGCC ensure the minority participation results it receives from GOMA are reasonably complete and accurate, and in particular, that the results include all licensee activity (repeat); and**
- d. MLGCC consider requiring licensees to provide audited information in a format that presents the minority participation levels achieved for construction and operational procurements.**

Finding 3

Efforts by licensees to achieve minority participation goals were not reported.

Analysis

The efforts of licensees to achieve minority participation goals in calendar year 2012 were not included in MLGCC's annual report. State law requires MLGCC's annual report to address the efforts by the licensees to achieve minority business participation goals. A similar condition was commented upon in our preceding report.

The original VLT request for proposals stated that GOMA would closely monitor licensees for minority business participation compliance. Furthermore, GOMA hired a private contractor that, under the terms of its contract, was supposed to assist with the monitoring of licensee efforts to comply with minority business participation requirements. However, GOMA did not furnish any information to the MGLCC on the efforts of the licensees to attain minority participation goals. GOMA has advised that, since by law, MLGCC is responsible for evaluating licensees' efforts to achieve minority business participation goals, GOMA may not continue contracting for these services.

Recommendation 3

We recommend that MLGCC report information about all licensees' efforts to achieve minority business participation goals (repeat).

APPENDIX



Maryland Lottery and Gaming Control Agency

Martin O'Malley, Governor • Stephen Martino, Director

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May 9, 2014

SENT VIA EMAIL ONLY:

Mr. Thomas J. Barnickel III, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street, Room 1202
Baltimore, MD 21201

RE: MLGCC's Responses to Performance Audit

Dear Mr. Barnickel:

Enclosed are the Maryland Lottery and Gaming Control Commission's (MLGCC) responses to the Video Lottery Operation Licensees - Minority Business Participation Performance Audit for the period January 1, 2012 through December 31, 2012.

If you should have any questions or require additional information, please contact James Butler, Director of Legislative & Policy Affairs, Maryland Lottery and Gaming Control Agency (MLGCA) at (410) 230-8781 or jbutler@maryland.gov.

Sincerely,

Stephen L. Martino
Director

c: Kimberly Robertson Pannell, Chair, Maryland Lottery and Gaming Control Commission
Commissioners
Gina M. Smith, Deputy Director/CFO, MLGCA
Jaclyn L. Vincent, Director of Gaming Research and Chief of Staff, MLGCA
Robert T. Fontaine, Principal Counsel, MLGCA

**Maryland Lottery and Gaming Control Commission (MLGCC)
Responses to Performance Audit on Video Lottery Operation Licensees -
Minority Business Participation for Calendar Year 2012**

Establishment of Minority Participation Requirements

OLA Finding 1

Maryland Lottery and Gaming Control Commission (MLGCC) has not established amended minority participation goals for four of the video lottery terminal (VLT) licensees.

OLA Recommendation 1:

We recommend that the MLGCC establish amended minority participation requirements for each VLT licensee and implement appropriate waiver provisions (repeat).

MLGCC Response 1:

The MLGCC concurs with the auditor's repeat finding and recommendation for the 2012 reporting period but provides the following background information for clarification purposes. MLGCC and the Governor's Office of Minority Affairs ("GOMA") have implemented several changes as a direct result of Office of Legislative Audits' ("OLA") prior findings and recommendations. Upon release of OLA's findings and recommendations in June 2013 for the 2011 reporting period, we immediately implemented changes in our procedures once notified of OLA's findings and recommendations.

Since the implementation of the Video Lottery Terminal ("VLT") program, MLGCC, in consultation with GOMA and the Maryland Department of Transportation ("MDOT"), has been trying to establish a Minority Business Enterprise (MBE) goal-setting process, which encompasses the requirements found in both state procurement law and state gaming law. In addition, MLGCC sought input from various state agencies in the establishment of a Procurement Review Group ("PRG") process that would address the complexities of this program as well as the prior legal concerns noted in the Attorney General's August 2011 memorandum. MLGCC has worked collaboratively with other state agencies and stakeholders in the refinement and finalization of a goal-setting process for the MBE participation goal and subgoals for Video Lottery Operation Licensees ("Licensees"). This process was finalized in the spring of 2013, with the establishment of a MBE construction goal for the Baltimore Horseshoe Casino.

As noted in the audit report, MLGCC completed setting the MBE participation goal and subgoals for the construction phase of the Horseshoe Baltimore Casino project. In the very near future, MLGCC, GOMA and MDOT will be finalizing the MBE goals and subgoals for the architect and engineering phase for the Maryland Live! Casino. In addition, MLGCC will be establishing the MBE goals and subgoals for the MGM Casino project, with assistance from GOMA and MDOT.

If the need arises, MLGCC and GOMA will develop amended MBE participation goals and subgoals for the four existing casinos and consider a Licensee's submission of an MBE waiver of the respective amended MBE participation goal, when so stated.

Regarding the recommendation to implement appropriate waiver provisions, the MLGCC contends that, since it has not established amended MBE participation goal for these four Licensees, there would be no need for these Licensees to request a waiver of the MBE goal. State waiver provisions currently exist, and Licensees can apply for a waiver of a stated MBE participation goal, if needed.

Reported Minority Participation

OLA Finding 2

GOMA did not adequately monitor and report on video lottery licensees' minority participation. Also, MLGCC did not review the reported information to ensure that it was complete and accurate.

OLA Recommendations 2(c)-(d):

We recommend that

- c. MLGCC ensure the minority participation results it receives from GOMA are reasonably complete and accurate, and in particular, that the results include all licensee activity (repeat); and
- d. MLGCC consider requiring licensees to provide audited information in a format that presents the minority participation levels achieved for construction and operation procurements.

MLGCC Responses 2(c)-(d):

- c. As noted in the first paragraph of MLGCC's Response 1, the MLGCC concurs with the auditor's finding and recommendation. To the extent possible, the MLGCC will continue to spot check with GOMA on the minority participation data it receives from the Licensees and on the data it is reporting in its mid-year and annual reports so that the reports include all Licensee activity for reporting period and that it is reasonably complete and accurate.
- d. Although it is correctly noted that MLGCC does not receive MBE participation data directly from the Licensee, MLGCC does receive Licensees' overall spending data on a monthly basis in a format that MLGCC requires. This spending data captures mainly ongoing operations data from all vendors doing business with the respective casino. Currently, MLGCC does not require that MBE spending data be audited by an independent CPA firm; MLGCC, however, will require that Licensees complete a certification indicating that the MBE data is accurate, and/or have the MBE data audited by an independent auditor as part of Licensee's continued duties and responsibilities to the MLGCC.

OLA Finding 3**Efforts by licensees to achieve minority participation goals were not reported.****OLA Recommendation 3**

We recommend that MLGCC report information about all licensees' efforts to achieve minority business participation goals (repeat).

MLGCC Response 3:

MLGCC concurs with the auditor's finding and recommendation. MLGCC will make certain that Licensees continue to document their outreach efforts to achieve the stated MBE participation goals and to report such efforts to both MLGCC and GOMA. Although MLGCC has not been advised by GOMA of a Licensee's non-compliance issue with outreach efforts, MLGCC will continue to require Licensees to forward to the MLGCC and GOMA supporting documentation of their outreach efforts so that the same information can be maintained for reporting purposes.

MLGCC understands that GOMA will make quarterly site visits to each Licensee to inquire about such outreach efforts and assist the Licensee in understanding other possible opportunities for MBE goal attainment.



MARTIN O'MALLEY
Governor
ANTHONY G. BROWN
Lieutenant Governor

Zenita Wickham Hurley
Special Secretary

May 13, 2014

Mr. Thomas J. Barnickel III, CPA,
Legislative Auditor
Office of Legislative Services
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Barnickel:

Pursuant to the procedures set forth by the Joint Audit Committee Policy on Agency Response to Reports issued by the Office of Legislative Audits, I am providing the attached revised response to the Legislative Auditor's Draft report dated April 2014. This revised response supersedes and replaces the one that was submitted in May 9, 2014.

The Governor's Office of Minority Affairs was audited on information submitted to the Maryland Lottery and Gaming Control Commission regarding the attainment of minority business participation goals in calendar year 2012 by the following video lottery operation licensees: Hollywood Casino Perryville in Cecil County, the Ocean Downs Casino in Worcester County, the Maryland Live! Casino in Anne Arundel County, Rocky Gap Casino in Allegany County, and the Horseshoe Baltimore Casino in Baltimore City. An electronic version of this response has been sent to your office via email at response@ola.state.md.us under the file name (GOMA Response OLA-VLT Audit 2012-Revised).

If you or members of your staff have any questions or need additional information, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Zenita Hurley".

Zenita Wickham Hurley
Special Secretary

Enclosures

cc: John Griffin, Chief of Staff, Office of the Governor
Peggy J. Watson, Deputy Chief of Staff, Office of the Governor
Steve Martino, Director, Maryland State Lottery and Gaming Control Agency
Gina Smith, Deputy Director/CFO, Maryland State Lottery and Gaming Control Agency

OLA Finding 1

Maryland Lottery and Gaming Control Commission (MLGCC) has not established amended minority participation goals for four of the video lottery terminal (VLT) licensees.

OLA's Recommendation 1

We recommend that the MLGCC establish amended minority participation requirements for each VLT licensee and implement appropriate waiver provisions (repeat).

GOMA's Response 1:

GOMA concurs with the findings and recommendations and provides the following background. In the spring of 2013, MLGCC, in consultation with the Maryland Department of Transportation (MDOT) and GOMA, and input from local jurisdictions, finalized a goal-setting process for the VLT facilities. MLGCC finalized Baltimore Horseshoe Casino's construction goal in May 2013. For the remaining goals of the VLT facilities currently in operations, GOMA is currently working with MLGCC to create procedures to develop data that can be used for goal-setting purposes that reconcile the early budgetary estimates with actual expenditure data.

OLA Finding 2

GOMA did not adequately monitor and report on video lottery licensees' minority participation. Also, MLGCC did not review the reported information to ensure that it was complete and accurate.

OLA's Recommendation 2 (a)

We recommend that GOMA verify the completeness and accuracy of total expenditure data reported by the licensees (repeat).

GOMA's Response to Recommendation 2 (a)

GOMA concurs with the auditor's findings and recommendations. GOMA notes that, as a result of the previous Performance Audit Reports, GOMA enhanced its procedures to ensure the completeness and accuracy of the expenditure and minority business participation data included in the reports. For example, in 2012, GOMA started receiving itemized financial information from each licensee's internal financial system. For the 2013 report, GOMA will require each licensee's chief executive and financial officer to attest that the expenditure and minority participation data that was submitted to GOMA was complete and accurate and reflects all appropriate exempted items. Moving forward, GOMA has also asked MLGCC to independently verify the expenditure data submitted by each licensee.

OLA's Recommendation 2 (b)

We recommend that GOMA report to MLGCC the complete licensee minority participation information, including both construction and operations activity (repeat).

GOMA's Response to Recommendation 2 (b)

GOMA concurs with the auditor's findings and recommendations. With respect to the expenditure and minority business participation data for Horseshoe Baltimore Casino and Rocky Gap Casino, GOMA intends to include in its 2013 report the design, development, construction and operations expenditures and minority business participation for all VLT facilities for all calendar years since 2011.

The auditors found that GOMA did not verify that licensees actually used MBE contractors for ongoing operations, specifically by conducting site visits and inventory reviews. For the pre-opening development and construction phases, GOMA has had regularly scheduled site visits with all of the licensees. GOMA is developing procedures to ensure that site visits are also performed quarterly for ongoing operations for all licensees.

OLA's Recommendation 2 (c)

We recommend that MLGCC ensure the minority participation results it receives from GOMA are reasonably complete and accurate, and in particular, that the results include all licensee activity (repeat).

GOMA's Response to Recommendation 2 (c)

Please see GOMA's response to Recommendation 2(a).

OLA's Recommendation 2 (d)

We recommend that MLGCC consider requiring licensees to provide audited information in a format that presents the minority participation levels achieved for construction and operational procurements.

GOMA's Response to Recommendation 2 (d)

Please see GOMA's response to Recommendation 2(a).

Finding 3

Efforts by two licensees to achieve minority participation goals were not reported.

OLA's Recommendation 3

We recommend that MLGCC report information about all licensees' efforts to achieve minority business participation goals (repeat).

GOMA's Response to Recommendation 3

GOMA understands that MLGCC has developed procedures and is currently collecting information regarding licensees' efforts to achieve minority business participation goals. Currently, this information is being submitted by the licensees to MLGCC staff.

AUDIT TEAM

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