

Performance Audit Report

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**Board of Liquor License Commissioners  
for Baltimore City**

July 2016

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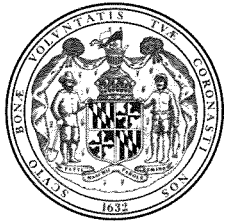
**OFFICE OF LEGISLATIVE AUDITS**  
**DEPARTMENT OF LEGISLATIVE SERVICES**  
**MARYLAND GENERAL ASSEMBLY**

**For further information concerning this report contact:**

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**Office of Legislative Audits**  
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Phone: 410-946-5900 · 301-970-5900  
Toll Free in Maryland: 1-877-486-9964  
Maryland Relay: 711  
TTY: 410-946-5401 · 301-970-5401  
E-mail: [OLAWebmaster@ola.state.md.us](mailto:OLAWebmaster@ola.state.md.us)  
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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

July 13, 2016

Warren G. Deschenaux  
Executive Director

Thomas J. Barnickel III, CPA  
Legislative Auditor

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

Ladies and Gentlemen:

We have conducted a performance audit to evaluate the effectiveness and efficiency of the management practices of the Board of Liquor License Commissioners for Baltimore City (BLLC) as required by the State Government Article, Section 2-1220 of the Annotated Code of Maryland. The law requires our audit focus on BLLC operations relating to licensing, inspections, disciplinary procedures, and management oversight. BLLC had issued 1,281 alcoholic beverage and adult entertainment licenses as of July 22, 2015 and fiscal year 2015 revenues totaled \$2.0 million, primarily derived from license fees.

Our audit disclosed that, while some improvements had been made, many of the conditions noted in our preceding audit of BLLC continued to exist. Specifically, BLLC still lacked comprehensive written policies and procedures in each area of operations reviewed. As a result, the staff was not provided with formal guidance for processing licenses, conducting inspections of licensed facilities, and handling disciplinary actions for instances of noncompliance with requirements.

BLLC also lacked procedures for management to effectively oversee and determine the efficiency and effectiveness of its operations. For example, BLLC management did not use reports from its automated licensing system and the City of Baltimore's 311 Customer Service Request System to monitor licensing activities and complaint investigations.

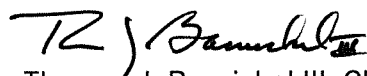
In a number of instances, BLLC issued licenses without ensuring licensees had paid the proper license fee amount, including late fees. For example, BLLC failed to collect fees from the casino and related concessionaires totaling \$76,000 for the 2014 and 2015 license years. Additionally, BLLC did not ensure that license transfers were completed within the required time frame or that updates to criminal background information were obtained for licensees.

BLLC still did not have an effective system to track inspections performed of licensed establishments and the outcomes of the inspections, making it difficult for BLLC management to effectively monitor the inspection process. For example, BLLC has been generally unable to obtain reliable reports from its newly implemented inspection reporting system. While BLLC's inspection staff has been reduced, BLLC did not assess whether each inspector was performing the expected number of daily inspections and whether the goal of performing 5,200 inspections annually was achieved. We determined that BLLC did not achieve this goal during the year ended April 30, 2015. Our review also disclosed that BLLC frequently did not follow-up timely on public complaints received through the City's 311 system and document the resulting investigations and resolutions.

We also noted that sufficient internal controls had not been established over cash receipts, accounts receivable, and payroll. Finally, BLLC management did not routinely prepare formal staff performance evaluations nor ensure financial disclosure statements were filed as required.

An executive summary of our findings can be found on page 7, and our audit scope and objectives are explained on page 11. The response to this audit is included as an Appendix to this report. We wish to acknowledge the cooperation extended to us by BLLC during our audit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "TJ Barnickel III", is written over the printed name.

Thomas J. Barnickel III, CPA  
Legislative Auditor

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# Executive Summary

## Legislative Audit Report on the Board of Liquor License Commissioners for Baltimore City July 2016

We conducted a performance audit to evaluate the effectiveness and efficiency of the management practices of the Board of Liquor License Commissioners for Baltimore City (BLLC) as required by the State Government Article, Section 2-1220(f) of the Annotated Code of Maryland. The law requires that the audit focus on BLLC operations relating to licensing, inspections, disciplinary procedures, and management oversight.<sup>1</sup>

BLLC is responsible for processing applications and issuing licenses to sell beer, wine, and liquor; conducting periodic inspections of businesses licensed to sell alcoholic beverages; collecting all license fees and fines; fining, suspending, or revoking the licenses of violators of alcoholic beverage laws; and licensing and regulating adult entertainment businesses in Baltimore City. There were 1,281 alcoholic beverage and adult entertainment licenses as of July 22, 2015 and annual fees for these licenses ranged from \$82.50 to \$15,000 depending on the type of license. According to City records, fiscal year 2015 revenues and expenditures totaled \$2.0 million and \$1.8 million, respectively.

### Objective 1 – Licensing

BLLC continued to lack formal policies and procedures to provide structure to the licensing process and to promote consistency and accountability. In a number of instances, BLLC renewed licenses without ensuring appropriate fees were paid. For example, BLLC failed to collect fees from the casino and related concessionaires totaling \$76,000 for the 2014 and 2015 license years. Furthermore, we found that BLLC did not assess late fees to the full extent allowed by law. Additionally, BLLC did not always ensure license transfers were completed within the allowable time frame and it had not established a process to receive updates to criminal background information for licensees. Finally, we found procedures over cash receipts and accounts receivable related to the licensing process did not provide sufficient controls and accountability over the related activity.

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<sup>1</sup> For purposes of this report, “BLLC” refers to the agency, including all staff, while the term “Board” refers to the Board of Commissioners which consists of three regular members and one alternate member.

## **Objective 2 – Inspections**

BLLC continued to lack comprehensive written policies and procedures for administering the inspection functions. While certain guidance existed, inspectors were provided minimal guidance regarding the conduct of routine inspections of licensed establishments including the minimum inspection requirements, the identification of violations and the related follow-up procedures.

BLLC continued to lack an effective tracking system for monitoring inspection activity, inspection outcomes, and enforcement and disciplinary actions. For example, BLLC has been unable to obtain reliable reports from its newly implemented inspection reporting system. As a result, it was difficult for BLLC management to effectively oversee the inspection process including monitoring the productivity of inspectors and ensuring the expected number of inspections were performed. Our statistical analysis indicated that the number of inspections actually completed during the year ended April 30, 2015 was at least 1,600 inspections short of the goal of completing 5,200 inspections annually.

We also found the Chief Inspector did not document performance of any supervisory activities. Specifically, the Chief Inspector did not account for the inspections performed, review Inspector's Reports, or ensure Inspector's Reports were filed in licensee files.

BLLC did not properly document the investigation and resolution of inspections performed as a result of complaints registered through the City's 311 Customer Service Request System. Our test of complaint investigations found BLLC often did not document the investigation results and the disposition or resolution of the complaints.

## **Objective 3 – Disciplinary Procedures**

The Board appeared to assess fines to licensees in a consistent manner based on the violation types. Additionally, since our preceding audit, BLLC discontinued the practice of conducting informal hearings with violators.

However, we found that BLLC continued to lack written policies and procedures for certain aspects of the disciplinary process. Specifically, there were no guidelines for determining which violations identified by inspectors or the police ultimately went to the Board and the time frame within which the violations should go to the Board. In addition, the audit found the Board did not comply with State law related to inactive licenses and allowed certain

current licensees to retain licenses when the businesses were not operational for periods exceeding 180 days, which is generally the legal time limit for a closed business.

#### **Objective 4 – Management Oversight**

BLLC had not implemented management practices to effectively oversee and manage the agency's operations. Many recommendations in our preceding audit report had not been addressed. Also, the automated licensing and the 311 systems were not used to generate available reports which would allow management to monitor operations. We also found BLLC did not formally evaluate employee performance nor ensure employees submitted required financial disclosure statements. Finally, we reviewed BLLC's payroll practices and found internal controls were inadequate, and BLLC made a number of errors in recording and reporting time worked.



# Audit Scope and Objectives

## Audit Scope

The State Government Article, Section 2-1220(f) of the Annotated Code of Maryland, requires the Office of Legislative Audits, at least once every three years<sup>2</sup>, to conduct a performance audit of the Board of Liquor License Commissioners for Baltimore City (BLLC) to evaluate the effectiveness and efficiency of the management practices of BLLC and the economy with which BLLC uses resources. The law also states the audit shall focus on operations relating to licensing, inspections, disciplinary procedures, and management oversight.

Our audit was performed in accordance with generally accepted government auditing standards. Those standards require 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.

## Objectives

Our audit included the following objectives:

1. Evaluate procedures over alcoholic beverage licensing and determine if the BLLC licensing process complied with State law and Board requirements.
2. Evaluate the BLLC procedures for performing inspections of alcoholic beverage licensees and determine whether inspections were performed in accordance with these procedures and any other requirements.
3. Evaluate the disciplinary process and determine whether BLLC complied with applicable State law, as well as Board rules and regulations.
4. Evaluate management processes to determine whether proper oversight exists over BLLC operations.

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<sup>2</sup> Effective July 1, 2016, the time frame within which audits of the BLLC must be conducted will change to four years pursuant to Chapter 49, Laws of Maryland 2016.

## **Fieldwork and Agency Response**

We conducted our fieldwork from January 2015 to September 2015. BLLC's response to our findings and recommendations is included as an appendix to this audit report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise BLLC regarding the results of our review of its response.

# Background Information

## Agency Responsibilities

The Board of Liquor License Commissioners for Baltimore City (BLLC) is an agency of the State of Maryland. BLLC operations are governed by Article 2B of the Annotated Code of Maryland<sup>3</sup> for alcoholic beverage licensing and by Subtitle 1 of Article 15 of the Baltimore City Code for the licensing and regulation of adult entertainment businesses. BLLC is responsible for processing applications for and renewals of licenses to sell beer, wine, and liquor; conducting periodic inspections of businesses licensed to sell alcoholic beverages; collecting all license fees and fines; fining, suspending, or revoking the licenses of violators of alcoholic beverage laws; and licensing and regulating adult entertainment businesses in Baltimore City. BLLC also issues licenses for special events (such as one-day licenses for beer and wine festivals). According to City records, which we verified through testing, there were 1,281 alcoholic beverage and adult entertainment licenses (not including special event licenses) as of July 22, 2015 (for the 2015-2016 license year).

Although BLLC is a State agency, all revenues from licenses issued, fines, and late fees are paid to Baltimore City's Director of Finance, and all BLLC expenditures are paid by the City. Furthermore, BLLC is included in the City's annual budget and its financial activity is included in the City's Comprehensive Annual Financial Report. BLLC's budget for fiscal year 2015 was \$2,025,316 with provision for 24 employees. According to City records, BLLC's fiscal year 2015 revenues and expenditures totaled \$2.0 million and \$1.8 million, respectively.

As of September 2015, BLLC had 16 full-time staff, which included 3 executive staff, 1 appeals counsel, 1 supervising inspector, 8 full-time inspectors, and 3 support staff; BLLC also had 4 part-time inspectors which were eliminated in December 2015.

Prior to April 2016, BLLC was governed by a three-person board, plus one alternate member, who were appointed by the Governor with the advice and consent of the Senate. However, Chapter 26, Laws of Maryland, 2016, amended the appointment process whereby the Mayor and the President of the City Council of Baltimore City are now responsible for those appointments.

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<sup>3</sup> Effective July 1, 2016, Article 2B will be recodified in the newly created Alcoholic Beverages Article of the Annotated Code of Maryland pursuant to Chapter 41, Laws of Maryland 2016.

The appointments are subject to the advice and consent of the Maryland Senate if the appointments occur when the Senate is in session.

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

Our audit included a review to determine the status of 24 findings contained in our preceding audit report dated March 28, 2013. We determined BLLC satisfactorily addressed 8 of these findings. The remaining 16 findings are repeated in this report as 15 findings.

While many of the deficiencies identified in our preceding audit report continued to exist, some improvements were noted. With respect to its licensing functions, our tests disclosed that BLLC had generally obtained required documentation from licensees (for example, support for the payment of personal property taxes or the existence of a valid trader's license) prior to issuing license renewals.

A staffing analysis performed by the City of Baltimore determined the number of inspectors needed to perform duties associated with inspecting licensees and resolving complaints. As of August 2015, BLLC's inspector staff size was reduced from 17 to 9 full-time positions.

BLLC staff discontinued using alternative methods to address licensee violations of alcohol beverage laws and regulations; instead of staff conducting informal hearings with violators, all violations are addressed through the Board hearing process. Also, we found that the Board was adhering to the State's Open Meetings Act.



# Findings and Recommendations

## Objective 1 - Licensing

### Objective and Methodology

Our objective for the Board of Liquor License Commissioners for Baltimore City (BLLC) licensing was to evaluate procedures over alcoholic beverage licensing and to determine if the licensing process complied with State law and Board requirements. To accomplish this objective we interviewed Board members and BLLC employees. We obtained a data file of all BLLC licensees for the 2015-2016 license year as of May 12, 2015 from the BLLC automated licensing system, maintained by the Baltimore City Mayor's Office of Information Technology (MOIT). We used the MOIT licensee data file to perform various tests of the licensing process including issuance of new licenses, license renewals, license transfers, and collection of related cash receipts. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit.

### Conclusion

BLLC continued to lack comprehensive policies and procedures to provide structure to the licensing process and to promote consistency and accountability. Additionally, in a number of instances, BLLC renewed licenses without ensuring the licensee had paid the proper license fee amount, including late fees. For example, BLLC did not assess the proper license fee to the casino operating in Baltimore City, nor did it ensure all the casino concessionaires were licensed. As a result, BLLC failed to collect fees from the casino and concessionaires totaling \$76,000 for the 2014 and 2015 license years.

BLLC did not always ensure license transfers were completed within the required time frame and it had not established a process to receive updates to criminal background information for licensees, as authorized by a 2012 State law. Finally, we found the procedures and recordkeeping practices for cash receipts and accounts receivable (unpaid fines) did not provide sufficient controls and accountability over the related activity. For example, assurance was lacking that all collections were properly recorded, processed and deposited. BLLC's revenues totaled \$2 million in the fiscal year ending June 30, 2015.

## **Background**

BLLC processes applications for new licenses, license renewals, and transfers of existing licenses to sell beer, wine, and liquor in Baltimore City and licenses adult entertainment businesses in the City. Licenses are valid for one year; alcoholic beverage licenses expire on April 30 and adult entertainment licenses expire on June 30. BLLC also issues licenses for alcoholic beverage sales during special events (such as beer and wine festivals).

According to City records as of July 22, 2015, there were 1,281 alcoholic beverage and adult entertainment licensees, not including special event licenses. Annual fees for alcoholic beverage licenses, as stated in State law, range from \$82.50 (for a Class C beer and wine license) to \$15,000 (for a video lottery facility) and vary depending on the type of establishment and what is sold. The annual fee for an adult entertainment business license, according to the Baltimore City Code, is \$1,000, in addition to any alcoholic beverage license fee, if applicable. See Exhibit 1 for a table of the types of licenses issued by BLLC along with the related license fees.

## **New Licenses**

Applicants for new licenses complete an application form, submit an application fee of \$500 to BLLC, and submit information for a criminal background check. Applications are processed by BLLC staff who are to ensure applicants include all required information. The Board schedules public hearings to review the applications and to vote on approval of the licenses. If approved, applicants must submit various documents to BLLC (such as a valid trader's license and proof of personal property tax payment). Once all documentation is submitted, each licensee must pay the applicable license fee and BLLC management will issue the license. According to the Board, there has been a moratorium on the issuance of new licenses since 1968, except for restaurant, arena, and hotel licenses, or as authorized by law.

## **License Renewals**

BLLC mails all current licensees a renewal application prior to March 1 of each year. By law, licensees must file a renewal application between March 1 and March 31. Renewal applications with the renewal processing fee (\$50) are submitted to BLLC, either by mail or in person. BLLC staff will review each application. State law for renewal applications requires the licensee to indicate the facts in the original application remain unchanged. Licensees must provide certain other documents, including a copy of a valid trader's license and proof of payment of personal property taxes by June 30<sup>th</sup> of each year. BLLC staff will notify the applicant when the license is ready for pick up.

and the applicant will pay the appropriate license fee. BLLC may assess a late fee of \$50 per day, up to a maximum of \$1,500, for renewal applications submitted after March 31 of each year or may reject the renewal application for cause, such as failure to provide required information.

## **License Transfers**

License transfers occur when there is a change in ownership or location, or when a licensee wants to provide additional services (such as live entertainment) not covered by the existing license. Transfer applications are generally processed in the same manner as applications for new licenses including a criminal background check. Transfer applicants submit an application and a \$500 application fee. Certain transfers of ownership are approved and processed by BLLC staff based on the provisions of State law, while all other transfers are presented to the Board at a public hearing. If approved, applicants have 180 days to submit all required documentation to BLLC. Once the applicant submits the required documents and pays a \$200 license transfer fee, BLLC management will issue the license. There were approximately 84 license transfers finalized during the 2014-2015 license year (May 1, 2014 through April 30, 2015) according to the BLLC licensing system.

## **Licensing Information System**

BLLC uses its automated licensing system to process and record alcoholic beverage and adult entertainment license information. BLLC uses the system to track each licensee's status (such as the submission of required documentation) and to record any comments or historical information about the licensee. In addition, the automated licensing system information is available to the public online through Baltimore City's Data Catalog, known as OpenBaltimore.

## **Findings**

### **Finding 1**

**BLLC lacked formal written policies to guide and control the licensing process.**

### **Analysis**

BLLC lacked formal written policies and procedures to direct staff in processing alcoholic beverage license applications, renewals, and transfers. Although State law outlines certain specific requirements to obtain a license and BLLC had adopted a number of additional requirements, BLLC management had not provided staff with sufficient uniform guidance on how

to consistently meet expectations and existing documentation requirements. Furthermore, controls were not in place, including a documented supervisory review process, to ensure licensees had provided appropriate documentation and paid appropriate fees before being issued a license. Specifically, adequate guidance did not exist to address the following areas:

- employee duties and the specific steps to be followed when processing applications and issuing licenses, including information that should be recorded in the licensing system;
- circumstances under which a license may be issued without all documentation having been received, and the designation of approval authority for such issuances;
- requirements for supervisory review and approval of licenses including ensuring the proper fees have been paid before the licenses are released;
- actions to be taken when licensees do not meet requirements (such as suspending an active license when the licensee does not provide proof of personal property tax payments, as required);
- the circumstances under which late fees will be assessed and the method for determining the amount of and for assessing such late fees for renewal applications filed after the March 31 deadline as permitted in State law; and
- specific documentation that should be retained in the licensee files.

Similar conditions were commented upon in our preceding audit report.

#### **Recommendation 1**

**We recommend BLLC**

- a. develop and implement formal written policies to ensure the licensing process is carried out consistently in accordance with State law and BLLC requirements (repeat); and
- b. establish effective controls, including a documented supervisory review process, to help ensure licensees submit all required documentation and pay all related fees (repeat).

#### **Finding 2**

**BLLC renewed certain licenses without ensuring licensees paid the proper amounts, including late fees.**

#### **Analysis**

BLLC renewed certain licenses without ensuring licensees paid the proper amounts, including late fees. Specifically, we tested 41 randomly selected

license renewals for the 2015-2016 license year and noted at least one fee issue for 12 of those renewals. Furthermore, extended testing that targeted certain conditions disclosed additional problems.

- Licensees for 8 of the 41 license renewals did not pay the proper amount due. In total, the 8 licensees were assessed fees \$2,420 less than the \$68,405 that should have been assessed. For example, certain licensees were not assessed for facility expansions (such as the addition of outdoor seating).

Since the 8 licensees which were assessed improper fees included 2 licensees holding a particular class of license, we expanded the test to include the fees paid by 6 other entities licensed by BLLC for the 2015-2016 license year which were also in this license class. We noted, in total, these entities were under-assessed fees totaling \$4,200.

- Three licensees appeared to have submitted license renewals late resulting in the potential failure to assess, to the extent allowed by law, late fees totaling \$650. Because these renewal applications were not date stamped when received, we determined the under-assessed amount for these three applications based on the date the application fee was recorded on BLLC's licensing system.

We tested an additional 10 renewal applications for which late fees were assessed totaling \$5,800 and noted that 9 of the licensees were stamped with a date received and were under-assessed late fees that could have been assessed under the provisions of State law by \$2,500. The remaining application could not be located so we could not determine if the proper late fee was assessed. State law provides for the assessment of a \$50 per day late fee on any liquor license application received after March 31, up to a maximum of \$1,500.

- Two license renewal applications did not include documentation of seating capacity, which affects the amount of fees assessed. (Evidence of seating capacity was available for the 10 other license renewals for which the fee was dependent upon the licensee seating capacity.)

Similar conditions related to renewal of licenses without assessing proper fees were commented upon in our preceding audit report.

## Recommendation 2

### We recommend BLLC

- a. issue renewal licenses only after the assessment and payment of all appropriate fees (repeat);
- b. assess late fees for applications submitted after March 31 of each year, as allowed by law (repeat); and
- c. ensure that applicants provide evidence of seating capacity with the renewal license application, as applicable (repeat).

### Finding 3

**BLLC did not assess the proper license fee for the casino operating in Baltimore City nor did it ensure the casino concessionaires were licensed.**

### Analysis

BLLC did not assess the proper license fee for the casino operating in Baltimore City nor did it ensure the concessionaires operating within the casino were licensed and assessed licensing fees.

Since its opening in August 2014, the casino has been assessed an annual license fee of \$12,000, rather than the annual video lottery facility license fee prescribed by law of \$15,000. BLLC management attributed the improper license fee to limitations of their automated licensing system. Specifically, the video lottery facility license category had not been separately established on the system.

In addition, seven establishments within the casino served alcohol and operated as independent concessionaires without liquor licenses. State law requires such establishments obtain a Video Lottery Concessionaire License and pay a \$5,000 annual license fee. According to counsel to the General Assembly, all such concessionaires are required to have their own liquor licenses. BLLC was unaware that the concessionaires required licenses and indicated it had a “lack of clarity on the laws” until its legal counsel provided the Board clear legal authority to license the concessionaires in February 2016.

As a result, BLLC has not received licensing revenues from the casino and concessionaires totaling up to \$76,000 for the 2014 and 2015 license years.

### **Recommendation 3**

#### **We recommend BLLC**

- a. license all establishments within the casino in accordance with State law, and
- b. collect past licensing fees due from the casino and concessionaires.

### **Finding 4**

**BLLC did not always ensure license transfers were completed within 180 days of receiving Board approval.**

### **Analysis**

BLLC did not always ensure approved transfers were finalized within 180 days as required by State law. In this regard, an Attorney General advice was issued in 2006 indicating that it was not mandatory to complete a transfer within 180 days; however, a subsequent Attorney General advice issued in 2013 indicated that it was in fact mandatory due to the implied consequence of expiration. After we raised this issue in our prior report, a formal Opinion of the Attorney General issued in April 2015 reaffirmed the 2013 advice in that BLLC must adhere to the 180-day requirement.

Our test of 10 judgmentally selected license transfers completed between July 30, 2014 and June 16, 2015 identified 2 transfers which were finalized 370 and 389 calendar days after Board approval of the transfers. According to the BLLC licensing system, there were approximately 84 license transfers finalized during the 2014-2015 license year.

After Board approval, applicants must provide BLLC with all required documentation to complete the license transfer (such as, inspection approvals from other agencies and a sales tax license) not more than 180 days later. We were advised by BLLC management in February 2016 that it has no intention of following the Attorney General's Opinion and that it believes it has the authority to determine the consequences if transfers are not completed within 180 days.

### **Recommendation 4**

**We recommend BLLC process license transfers consistent with the Attorney General's Opinion (repeat).**

**Finding 5**

**BLLC did not establish a process to receive updates to licensee criminal records as required by State law.**

**Analysis**

BLLC did not receive updates to criminal background information on licensees after the initial background checks were completed. BLLC obtains a criminal background check for new licensees and for license transfers. A State law, effective July 1, 2012, provided for BLLC to receive updates on licensee criminal records from the Criminal Justice Information System Central Repository (CJIS); however, no updates were provided and BLLC made no inquiries to CJIS as to why updates were not provided. As a result, BLLC continued to rely on licensee reporting on the renewal application as to whether licensees had been convicted of any crimes.

State law specifies that a license may not be renewed if, in the judgment of licensing officials, a criminal conviction renders a licensee unfit for a license. By failing to obtain updates on licensee criminal convictions, the BLLC lacked assurance that the information provided on renewal applications was accurate.

**Recommendation 5**

**We recommend BLLC establish a process to obtain, and timely review, updates to licensee criminal records from CJIS and take appropriate licensing actions based on the updates received.**

**Finding 6**

**Procedures and recordkeeping practices for cash receipts and accounts receivable did not provide sufficient controls and accountability for the related activity.**

**Analysis**

Controls over cash receipts were not sufficient to ensure all collections were properly recorded, processed, and deposited. According to City records, BLLC's fiscal year 2015 revenues totaled \$2 million. Also, records of collections and accounts receivable for unpaid fines and fees were not properly maintained.



### **Processing of Collections**

BLLC did not restrictively endorse checks immediately upon receipt. Instead, checks were restrictively endorsed when checks were prepared for deposit, which, in some cases, was several days after the checks were received. In addition, BLLC did not properly secure checks. Specifically, checks either were left on the desk of office staff during the day or were placed in an unlocked box near the front desk area, and checks were not placed in a safe or locked cabinet overnight.

### **Separation of Duties**

There was a lack of adequate separation of duties over the cash receipts and accounts receivable functions. Specifically, one employee who assisted with initially receiving and recording cash receipts was also responsible for preparing the funds for deposit with the City and maintaining accounts receivable records. Additionally, this employee was assigned capabilities on the cash receipts and licensing systems which allowed the individual to create and void the same receipt as well as create and delete a license. Consequently, this employee had virtually complete control over the cash receipts and accounts receivable functions, which could allow collections to be misappropriated without detection. We were advised by BLLC management that adequate staffing was not available to ensure a proper segregation of duties. However, BLLC had not implemented alternative controls, such as independent supervisory reviews, to ensure the propriety and completeness of cash receipt deposits, and the appropriateness of voided receipts and accounts receivable transactions.

### **Reconciliation Process**

BLLC did not complete monthly reconciliations to verify cash receipts recorded on its records were deposited, as documented on the City's accounting records. As part of our test of 41 license renewals with related checks received totaling \$65,985, BLLC was unable to provide documentation that 8 checks totaling \$13,000 were deposited, as evidenced by recordation in the City's accounting records. With the assistance of the Baltimore City Department of Audits, we determined these collections, as well as other funds, had been posted to a BLLC holding account instead of being credited to the appropriate revenue account. Because BLLC did not reconcile its cash receipt records to the City's accounting records, it was unaware that during fiscal years 2013 to 2015 a total of \$1,066,550 had been posted to the BLLC holding account rather than being recorded in the appropriate City revenue account.

### **Accounts Receivable**

BLLC had not established adequate procedures over accounts receivable. The accounts receivable records indicated 34 outstanding accounts totaling \$44,000 as of March 2015; however, the records only include outstanding fines and fees from fiscal year 2015. Furthermore, our tests of 10 license renewals for the 2015-2016 license year disclosed 3 licensees were able to renew their licenses despite having unpaid fines and fees totaling \$8,500.

Similar conditions relating to processing of collections and the reconciliation process were commented upon in our preceding audit report.

### **Recommendation 6**

**We recommend that BLLC**

- a. institute proper internal controls over cash receipts, including restrictively endorsing all checks immediately upon receipt, properly securing checks, and depositing collections timely (repeat);
- b. separate duties so that employees with access to collections cannot issue licenses or adjust the accounts receivable records or implement other controls, such as independent supervisory review, to ensure the propriety of cash receipts and accounts receivable transactions;
- c. ensure the timely preparation of reconciliations of receipts to the City's accounting records by an employee without access to collections and the timely correction of any errors found, and include an independent supervisory review and approval of the reconciliations (repeat);
- d. investigate and update the accounts receivable records for fines and fees from years prior to fiscal year 2015; and
- e. not allow licenses to be renewed until all outstanding amounts due have been paid.

## Objective 2 - Inspections

### Objective and Methodology

Our objective for the inspection process was to evaluate BLLC procedures for performing inspections of alcoholic beverage licensees and determine whether inspections were performed in accordance with the procedures and any other written requirements. To accomplish our objective, we interviewed the Board members and BLLC employees. We also obtained and reviewed the *Rules and Regulations for the Board of Liquor License Commissioners for Baltimore City* and a 2014 study that was performed by the City of Baltimore's Department of Finance – Bureau of Budget Management Research entitled *Baltimore City Liquor Board: A Staffing Model*. This study analyzed BLLC's staffing needs and contained several recommendations including, in part, that BLLC's inspection staff be reduced.

Because of the lack of records summarizing inspections conducted, we used a statistical approach to estimate the number of routine and compliance inspections completed by inspectors during the 2014-2015 license year (May 1, 2014 through April 30, 2015) for the 1,281 licenses in the licensing database as of July 22, 2015. We also tested selected high-sale licensees to determine the frequency with which the licensees were inspected.

Finally, we tested inspections related to complaints registered through Baltimore City's 311 Customer Service Request System (311 System) to evaluate whether BLLC properly handled complaint-initiated inspections.

### Conclusion

BLLC continued to lack comprehensive written policies and procedures for the inspection process. Inspectors were provided very little guidance, including how to conduct routine inspections, specifying the minimum inspection requirements, identifying violations, and conducting follow-up. Consequently, the consistent enforcement of the requirements of State law and the Board's Rules and Regulations was not assured.

BLLC did not have an effective system for tracking inspections performed, outcomes of those inspections, and any related enforcement and disciplinary actions taken. As a result, it was difficult for BLLC management to effectively oversee the inspection process including monitoring the performance of BLLC inspectors and ensuring the desired number of inspections were performed. Our audit determined that BLLC's goal of inspecting each establishment, on average, four times a year was not met, and the inspections performed fell short of the targeted number of inspections.

We also found the Chief Inspector did not document the performance of any supervisory-related activities, such as the review of Inspector's Reports. Finally, the audit disclosed BLLC lacked written policies for processing and resolving complaints received through the City's 311 Customer Service Request System. Many complaints were not investigated timely or were closed without adequate documentation of investigation.

## **Background**

BLLC conducts periodic, routine inspections of businesses licensed to sell alcoholic beverages as well as licensed adult entertainment businesses in Baltimore City. For each routine inspection, BLLC inspectors prepare an Inspector's Report to document the areas reviewed (such as valid and current licenses and bathroom operation and cleanliness) as well as any violations and corrective actions needed.

In addition to routine inspections, BLLC responds to complaints about licensees received from the City's 311 Customer Service Request System (referred to as complaints). This System, operated by the Mayor's Office of Information Technology (MOIT), allows City residents to file complaints by telephone or online. The System refers complaints to the appropriate agency for follow up. It also allows the agency receiving the referral to update the System with the current status and ultimate complaint resolution. This information is available to the public via the 311 website.

BLLC conducts investigations of licensees (such as allegations of underaged drinking or illegal gambling) usually based on complaints or tips received from the public or concerns noted by inspectors during the routine inspection process. These investigations may be conducted with other government agencies such as the Baltimore City Police Department. Violations by licensees as noted on the Inspector's Report and external agency reports could result in a hearing before the Board.

During our preceding audit, BLLC employed 3 supervising inspectors, 14 full-time inspectors and 5 part-time inspectors. As a result of our preceding audit, the City of Baltimore's Department of Finance – Bureau of the Budget and Management Research conducted a staffing analysis of the BLLC which concluded that the BLLC needed 7 full-time equivalent inspectors to meet its goal of conducting, on average, four inspections per year for each licensee (approximately 5,200 inspections per year). This conclusion was based on the assumption that each inspector would perform 6 inspections a day during the estimated 133 days a year that BLLC claimed inspectors could devote to performing inspections. As of August 2015, BLLC employed 1 supervising

inspector (Chief Inspector), 8 full-time inspectors, and 4 part-time inspectors. Subsequently, BLLC eliminated the 4 part-time inspectors positions in January 2016.

BLLC has certain written guidance over the Inspection Division operations. Specifically, the Board's *Rules and Regulations*, revised April 1998, provide guidance to licensees and criteria for violations. State law required BLLC to review these *Rules and Regulations* by October 31, 2015 and every five years thereafter. BLLC adopted revised Alcoholic Beverage Rules and Regulations on December 17, 2015 which became effective January 1, 2016.

## Findings

### Finding 7

**BLLC lacked comprehensive written policies and procedures to guide the inspection process.**

### Analysis

BLLC lacked comprehensive written policies and procedures to govern the inspection process. Comprehensive policies and procedures should guide all inspectors on how to conduct routine inspections, specify minimum inspection requirements, provide guidance for identifying violations (generally based on the seriousness of the non-compliance), and guide inspectors in conducting follow-up to ensure violations are corrected. At the time of our audit, existing guidelines provided inspectors with minimal guidance on how to enforce requirements contained in State law and in the Board's *Rules and Regulations* for licensees. For example, we noted the following processes for which guidance was lacking:

- The process used to conduct inspections and the specific aspects of each inspection area and topic to be covered during an inspection were not addressed. For example, while the inspector is to inspect the kitchen, including the storage of food, trash containers, and its general condition, a satisfactory level of compliance was not defined for each area.
- Licensee violations were not defined. We were advised that inspectors were left to apply their own criteria in evaluating noncompliance.
- Current BLLC written procedures did not specify a timeline for any follow-up action for violations.

- No guidance was provided on how to perform and document the review of invoices related to alcohol deliveries to determine if licensee alcohol was purchased from a wholesaler licensed by the Comptroller of Maryland, as required. We interviewed four inspectors about their process for determining if licensees only purchased alcohol from licensed wholesalers and each had a different method of assessing licensee compliance during inspections. In our opinion, none of the methods used by these inspectors was sufficient. For example, none of the four inspectors routinely compared the alcohol stock on hand to invoices from licensed wholesalers.

A similar condition was commented upon in our preceding report.

#### **Recommendation 7**

**We recommend that BLLC develop and implement comprehensive written procedures over the inspection process which includes guidance addressing the aforementioned areas (repeat).**

#### **Finding 8**

**BLLC lacked an effective tracking system for monitoring inspection activities (including inspector productivity), inspection outcomes, and enforcement and disciplinary actions.**

#### **Analysis**

BLLC lacked an effective tracking system for monitoring inspection activities (including inspector productivity), inspection outcomes, and related enforcement and disciplinary actions. Consequently, BLLC was unable to readily determine whether inspectors met inspection goals, and ensure that inspection reports were accounted for, and all violations were appropriately addressed and resolved. Using a statistical approach, we determined that BLLC did not conduct the targeted numbers of inspections for the year ended April 30, 2015. Furthermore, during that same period, our testing of 19 licensees which were among the highest in alcohol sales in the City were inspected, on average, 2.63 times including two licensees that were never inspected during that period.

For most of the period under review, the Inspector's Reports used to document inspections of licensees were manually completed and not recorded or compiled into a database or spreadsheet. Rather, the Reports were filed by the inspectors in the respective licensee file folders maintained at the BLLC office. Beginning in December 2014, Inspector's Reports were supposed to be entered into an electronic spreadsheet. However, our testing

disclosed that the data in this spreadsheet did not include all inspections performed and also contained errors such as duplicative entries and inspections that were recorded without all relevant information. For example, our review of data recorded in this spreadsheet during the period of January 2015 to April 2015 disclosed 265 inspections where the data were incomplete, such as not indicating if a trader's license or health certifications were sighted. For 27 of these inspections, no inspection data were recorded.

Effective in June 2015, BLLC inspectors began using electronic tablets supplied by Baltimore City to complete inspection reports; the inspection results were then transferred to a database. However, as of February 16, 2016, BLLC was generally unable to obtain summary reports from the database to assist in monitoring inspections. Furthermore, the new system did not provide for licensees to sign inspection reports to acknowledge inspections performed and we were advised by BLLC management that the tablets were sometimes unreliable which caused incorrect inspection dates and times to be recorded in the database.

BLLC did not perform a documented analysis of the actual number of inspections to ensure the goal of inspecting each licensee, on average, four times a year was met. Nor had BLLC ensured the number of inspections performed by each inspector during each work day was sufficient to achieve this inspection goal.

Because BLLC lacked a reliable record of inspections completed, we used statistical sampling to estimate the number of inspections completed for the year ended April 30, 2015. Our statistical analysis indicated that the number of inspections conducted fell short of the goal of completing 5,200 inspections. Specifically, we are 95 percent confident<sup>4</sup> that between 2,324 and 3,605 inspections were completed during the 12-month period ended April 30, 2015 – at least 1,600 inspections fewer than the goal. To conduct this analysis, we selected a random sample of 35 licenses and, using the inspection files, determined that 81 inspections had been conducted at these establishments during the year ended April 30, 2015. Our review of the 35 licenses also identified 5 licensed establishments for which there was no record of any inspections during that year.

Also, a separate test of the inspections conducted during that year of licensees which, according to the Comptroller of Maryland, had among the highest alcohol sales in the City, disclosed that, on average, these licensees

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<sup>4</sup> Variable sampling was used with a standard deviation of 1.5 and precision of 0.5 to calculate the sample size.

had been inspected 2.63 times. Only 3 licensees were inspected at least four times. Furthermore, 2 of these 19 high-volume licensees were not inspected at all during this period.

Similar issues were commented upon in our preceding report.

#### **Recommendation 8**

**We recommend that BLLC**

- a. establish an effective system for tracking inspections by working with the City of Baltimore to address any performance and functionality issues with the inspection tablets;**
- b. ensure the inspection database includes all relevant information, such as the date and time of the inspection, acknowledgement by licensees that inspections occurred, the name of the inspector, violations noted, and any related disciplinary action taken (repeat);**
- c. develop reports from the inspection database to allow BLLC management to monitor licensee inspection results (repeat); and**
- d. monitor inspections to ensure that the established goals regarding the overall number of inspections conducted, and the number of inspections per inspector, are met.**

#### **Finding 9**

**The Chief Inspector did not document duties performed.**

#### **Analysis**

The work performed by the Chief Inspector was not documented. Job requirements for the Chief Inspector include training, supervising, and evaluating subordinate inspection staff, reviewing and approving all Inspector's Reports, and reviewing, monitoring, and ensuring timely investigation and processing of violation cases.

We were informed that the Chief Inspector participates with community groups or events, and participates in some inspections. However, there was no documentation of the performance of these duties except for inspections performed by the Chief Inspector. There was no evidence that the Chief Inspector accounted for the inspections performed, reviewed Inspector's Reports or ensured the Inspector's Reports were filed in the licensees' files. In this regard, our test of 81 Inspector's Reports found no evidence of the Chief Inspector's review. In addition, as commented in Finding 16 of this report, inspection staff did not receive written performance evaluations every six months as required by Baltimore City policy.



A similar issue was commented upon in our preceding report.

#### **Recommendation 9**

**We recommend that BLLC ensure that the duties performed by the Chief Inspector, including supervision of inspection staff and review of inspection results, are documented (repeat).**

#### **Finding 10**

**BLLC lacked comprehensive written procedures for the processing and resolution of 311 complaints. Many complaints were closed without adequate documentation of investigation results.**

#### **Analysis**

BLLC lacked comprehensive written policies for processing and resolving 311 complaints about licensed establishments. While BLLC developed a one-page procedure for the handling of 311 complaints effective on July 1, 2013, this procedure was not comprehensive as it did not cover the full process of handling a complaint from acceptance through recordation of investigation results and closeout in the System.

BLLC did not adequately document the handling and resolution of 311 complaints which resulted in complaints being closed without evidence of investigation. We also found that complaints were not investigated and closed within 72 hours which is BLLC's goal.

We noted that 927 complaints were closed in the System between January 29, 2015 and August 11, 2015; however, only 495 complaints were received between those dates. Therefore, at least 432 of the 927 closed cases were received prior to January 29, 2015. We were advised that cases were closed to clear out a backlog of complaints, and our review of the results of the investigations noted in the System found most were either closed with no comment or stated they were closed by the Chief Inspector.

We also selected 14 complaints received by BLLC between January and August 2015 for testing. We found that 12 of the 14 complaints were either not closed timely (which for purposes of this test, we considered to be within 14 days) and/or lacked adequate documentation to support the closure as follows:

- Two complaints had been outstanding 50 and 74 days as of the time of our test but had not been closed in the System.

- Seven complaints had been closed in the System but did not have adequate detail in the System to indicate an investigation had been completed.
- Eight complaints had been closed in the System but not until 15 to 90 days after the complaint was received.

Similar issues were commented upon in our prior report.

Based on information received from MOIT, the 311 System referred 807 complaints to BLLC for the period from May 1, 2014 and April 30, 2015.

#### **Recommendation 10**

**We recommend that BLLC**

- develop and implement comprehensive written procedures over the complaint investigation process, including timeliness of conducting and recording investigations (repeat); and**
- use the 311 System's report capabilities to monitor complaint investigations and resolutions to ensure complaints are promptly resolved after appropriate investigation (repeat).**

#### **Finding 11**

**BLLC did not use sound meters during the investigation of noise complaints.**

#### **Analysis**

BLLC did not use available sound meters during the investigation of noise complaints to objectively determine whether licensees violated regulatory provisions. We were advised that inspectors had not been trained to use BLLC's two sound meters, which had not been calibrated until September 2015. Additionally, the inspectors did not have access to the meters after hours, when most noise complaints have been received and followed up. Specifically, the meters were stored in the offices of BLLC and were not accessible during non-business hours. Of the 807 complaints BLLC received from the 311 System between May 1, 2014 and April 30, 2015, 354 (44 percent) were noise-related complaints.

None of the inspection reports for 5 noise-related complaints received between April 2015 and August 2015 contained a documented decibel level to substantiate whether a violation had occurred, although 2 of these complaints resulted in a violation being noted. State regulations and the

Health Code of Baltimore City specify the maximum permissible sound levels for a variety of circumstances (such as 55 decibels for residential area as measured from the property border).

A similar issue was commented upon in our preceding report.

**Recommendation 11**

**We recommend that BLLC use the available sound meters to investigate noise-related complaints and document the findings as part of the investigative process (repeat).**



## Objective 3 – Disciplinary Procedures

### Objective and Methodology

Our objective for BLLC's disciplinary procedures was to evaluate the disciplinary process and determine whether BLLC complied with applicable State law, as well as Board *Rules and Regulations*. To accomplish this objective, we interviewed the Board members and BLLC employees to determine the types of disciplinary proceedings available and the process for each. We also observed several Board hearings. We performed testing to evaluate whether the disciplinary process was properly documented and documentation was retained in the licensee files. We also reviewed for licenses inactive for more than 180 days which would expire, by law, to determine if the Board and BLLC took appropriate action.

### Conclusion

BLLC lacked written policies and procedures for certain aspects of the disciplinary process. In particular, we found that there were no guidelines for determining which violations identified by inspectors and the police ultimately went before the Board, and BLLC had not established a formal policy to specify the time frame within which violations should go to the Board. We also found that the Board did not comply with State law related to inactive licenses as certain current licensees were allowed to retain licenses when their businesses were not operational for periods exceeding the legal limit.

We did note that fines assessed by the Board appeared to be assessed in a consistent manner and for the amounts provided by law. We also noted that, since our preceding audit, BLLC discontinued the practice of conducting informal hearings with violators. Currently, violations are addressed through the Board hearing process.

### Background

Most disciplinary proceedings against licensees are generated from referrals by the Baltimore City Police Department. Other proceedings result from the inspection process, investigations, 311 complaints and reports from other agencies, such as the Comptroller of Maryland.

Using the Board's Hearing Agendas for fiscal year 2015, we summarized the sources of reported violations.

**Board of Liquor License Commissioners for Baltimore City Hearings  
Fiscal Year 2015**

Referral Source	Number of Hearings	Number of Violations	Percentage of Hearings	Percentage of Violations
Baltimore City Police	111	189	66%	61%
BLLC Inspectors	30	64	18%	21%
Comptroller of Maryland	9	14	5%	4%
Baltimore City Police and BLLC Inspectors <sup>1</sup>	12	30	7%	10%
All 3 Agencies <sup>1</sup>	1	6	1%	2%
Unknown	6	7	3%	2%
<b>TOTALS</b>	<b>169</b>	<b>310</b>	<b>100%</b>	<b>100%</b>

<sup>1</sup> Represents cases in which a hearing was held for one licensee that involved multiple violations that were reported by different agencies.

Although the Baltimore City Police, BLLC inspectors and/or the Comptroller of Maryland may investigate and note instances of licensee noncompliance with laws and *Board Rules and Regulations*, the Board is responsible for adjudicating cases to determine if violations have actually occurred and for setting the related penalties. State law provides that the Board is charged with the duty of enforcing the provisions of the Alcoholic Beverages Article (Article 2B) of the Annotated Code of Maryland. The Board meets weekly in public sessions to adjudicate cases resulting from violations as well as to grant new licenses and license transfers. The hearings are considered quasi-judicial and include testimony from inspectors, police, and licensee representatives and are documented via transcripts. The decision portion of the transcript is included in the licensee files to document the Board's action. Licensees may appeal the decisions of the Board to the Circuit Court.

State law includes penalty provisions for licensees found guilty of violating State law and/or *Board Rules and Regulations*. Section 16-507 of Article 2B of the Annotated Code of Maryland states, for any violation which is cause for suspension under the alcoholic beverage laws affecting Baltimore City, BLLC may for a first offense, impose a fine of not more than \$500 or suspend the license or both, or for any subsequent offense, impose a fine of not more than \$3,000 or suspend the license or both. State law further states BLLC may revoke or suspend any license for any cause which in the judgment of the Board, is necessary to promote the peace or safety of the community in which the place of business is situated. This law also states the license must be

revoked or suspended under certain specific circumstances (such as making any material false statement in any application for a license or permit).

As previously indicated, formal disciplinary hearings are quasi-judicial proceedings where the Board determines the guilt or innocence of the licensee based upon the evidence presented. According to the Board, these determinations are made using “a preponderance of the evidence” standard and not a “beyond a reasonable doubt” standard. Licensees may be represented by counsel, and the Board will hear testimony and obtain other information (such as the prior violations of the licensee over the preceding three years) prior to making a decision and determining whether a penalty is appropriate. Licensees are provided the Board’s rulings verbally at the hearing and in writing if the ruling results in a penalty (fine, suspension, or revocation) via a Penalty Assessment Notice. The Notice includes the law or rule violated, the amount of the penalty, and the amount of time the licensee has to pay the fine (usually up to 90 days).

## **Findings**

### **Board Fines Were Assessed in a Consistent Manner**

Fines assessed by the Board appeared to be reasonably consistent within violation types for the items tested. Specifically, we tested 15 licensee violation cases which occurred during fiscal year 2015. During our testing, we did not note any instances where fines were inconsistent with those allowed by law, including the Board’s waiver of assessed fines (usually related to first offenses) and variations in fines imposed appeared reasonable.

### **Board Hearings Were Held for Violations**

In our preceding audit report, we noted that BLLC used alternatives to the Board hearing process to address violations of alcohol beverage laws and regulations. Currently, we found that BLLC staff discontinued using alternative methods to address licensee violations. Specifically, staff no longer conducted informal hearings with violators. Rather, violations were addressed through the Board hearing process.

**Finding 12**

**BLLC lacked written policies and procedures for certain aspects of the disciplinary process.**

**Analysis**

BLLC lacked written policies and procedures providing guidance for determining which violations go to the Board and the timing of such referrals. Specifically, we found the following conditions:

- There were no guidelines for determining which violations identified by inspectors and police were to go before the Board. Specifically, inspectors made the determination of whether to refer violations to supervisors for possible Board action based on their personal judgment. Furthermore, the inspector's rationale for not referring violations to supervisors for possible Board action was not documented. Likewise, the decision of the supervisory personnel to ultimately refer the cases noted by the inspectors and the police for a Board hearing was based on the supervisor's personal judgment. Violations range from administrative in nature such as a failure to display a Trader's License to serious violations such as serving alcohol to a minor.
- BLLC did not have a formal policy to specify the time frame within which violations would go before the Board. Delays in holding Board hearings are significant because licensees can continue to operate until the time of the hearing. Our test of 15 cases with 34 violations that were heard by the Board found that 17 violations were heard from 181 to 783 days after the violation occurred. For example, one case involved six violations (related to operating after legal hours), that occurred on separate dates between January 12, 2013 and March 2, 2014, for which the hearing was not held until August 21, 2014.

Similar conditions were commented upon in our preceding report.

**Recommendation 12**

**We recommend that the Board and BLLC develop and implement written procedures to govern the disciplinary process. Specifically, the written procedures should at least provide:**

- a. guidance on when violations should be brought to the Board (repeat), and**
- b. an appropriate standard for the timeliness of conducting hearings (repeat).**



**Finding 13**

**BLLC did not establish a formal process to effectively monitor closed establishments to ensure that the alcoholic beverage licenses had expired in accordance with State law.**

**Analysis**

BLLC did not establish a formal process to effectively monitor licensed establishments closed for 180 days (the business is closed or ceased selling alcohol) to ensure the related license expired, as required by State law.

BLLC may become aware of business closures in a variety of ways including the inspection process, community complaints, licensees including such information on renewal applications, and when licensees request a hardship extension or approval to transfer a license. When BLLC becomes aware of a business closure, it sends the licensee a letter requesting additional information on the closure. However, BLLC does not maintain a listing or other system to formally track information about business closures, unless a licensee requested a hardship extension or requested to transfer the license to another location or person. There is no assurance that all known closures were reported to office staff for follow-up.

State law requires that 180 days after a licensed establishment has closed the business or has ceased active alcoholic beverage operations, the license shall expire except under certain circumstances (such as an application for approval of a transfer to another location or to another person has been approved or is pending). Licensees may also submit a written request for a hardship extension within the 180-day period. The law further states its intent is that the total time period for which a license may be deemed unexpired is 180 days if no undue hardship extension is granted, and no more than 360 days if an undue hardship extension has been granted and the time period begins at the earlier of the closing of the business or cessation of alcoholic beverage operations.

Our test of 10 transferred licenses approved during the period from July 2013 through April 2015 disclosed that, based on the law's requirements, the Board should have terminated 2 of these licenses prior to the transfer approval due to the length of time the establishments were closed. Based on documentation in the licensee files, these two establishments closed March 2011 and June 30, 2012. Therefore, considering the requirements of law, their licenses should have expired on September 30, 2011 and December 31, 2012, respectively. However, BLLC allowed these licensees to continue to renew their licenses.

For example, for the establishment that closed in March 2011, BLLC belatedly granted a hardship extension in April 2013, which should have expired in September 2013. Although the law provides for only a single 180-day hardship extension, we found the Board granted the establishment a second hardship extension in December 2013. Eventually the establishment applied to transfer the license and this application was approved in February 2014. The transfer was not finalized until March 2015. In total, the transfer of this license took approximately four years after closure which is well beyond the legally permitted time period for a closed establishment. (As commented upon in Finding 4, delays for these 2 establishments were in part due to the failure to timely complete the transfer of the related licenses.)

Similar comments were included in our preceding report.

### **Recommendation 13**

**We recommend that**

- a. BLLC formally track licensed establishments which closed or ceased active alcoholic beverage operations (repeat),**
- b. BLLC notify the Board of licensed establishments that have been closed for more than 180 days for appropriate action (repeat), and**
- c. the Board discontinue granting additional hardship extensions beyond the time period permitted by law (repeat).**

## Objective 4 – Management Oversight

### Objective and Methodology

Our objective was to review management processes to determine whether proper oversight exists over BLLC operations. To accomplish this objective, we interviewed the Board members and BLLC employees, and we reviewed BLLC's procedures and conducted tests with respect to payroll, employee performance evaluations, financial disclosures, and potential conflicts of interest.

### Conclusion

BLLC had not implemented management practices to oversee its operations and to help ensure efficient and effective practices. Many recommendations in our preceding audit report had not been addressed, including the need to develop and implement policies and procedures governing its operations. Also, available automated systems were not used to generate reports which would allow management to monitor operations, and BLLC had not established an effective process to monitor inspector productivity.

We also found BLLC did not routinely prepare formal employee performance evaluations, as required by applicable Baltimore City policy, nor ensure employees filed required financial disclosure statements. Internal controls over payroll were not adequate and a number of discrepancies existed in the recording and reporting of time worked. Finally, BLLC had not digitized its licensee records by July 1, 2015 as required by State law.

### Findings

#### **Finding 14**

**BLLC had not implemented management practices to effectively oversee and manage the agency's functions.**

#### **Analysis**

BLLC management had not established sufficient practices and procedures to oversee the status of its operations and to determine the effectiveness and efficiency of its operations.

- Many of the recommendations made in our preceding audit report had not been implemented and the related audit findings continued to exist and are again described in this report. For example, during the period under review, BLLC had not established and implemented formal procedures

and policies in a number of operational areas. BLLC still did not routinely generate reports from the automated licensing and 311 complaint systems which would enable management to determine the status of licensing actions and complaint investigations and to evaluate the effectiveness and efficiency of BLLC operations.

- BLLC failed to act upon law changes such as obtaining updates on active licensee criminal activity and digitizing its records (see Finding 18).
- BLLC management lacked an effective system of tracking inspector productivity and, therefore, did not compare expected to actual work performance by inspectors.
- BLLC did not post advertisements of proposed Board action on applications, such as a new or transfer licenses, in newspapers as required by State law. As of May 2015, notices of Board action have not been printed in any newspaper since approximately November 2014. State law requires public notices be printed in three local newspapers two times over a two-week period prior to the associated Board hearing. There were approximately 84 transfers completed during the 2014 licensing year (May 1, 2014 to April 30, 2015).

Similar conditions regarding the lack of management oversight were commented upon in our preceding report.

#### **Recommendation 14**

**We recommend that BLLC**

- a. develop policies and procedures governing BLLC operations as well as the tools necessary to provide summary and status information on all BLLC operations and allow BLLC management to effectively oversee agency operations and ensure resources are used in the most efficient and effective manner, in accordance with relevant laws (repeat); and**
- b. ensure accurate and reliable data are recorded in its systems and reports are generated to enable management oversight (repeat).**

**Finding 15**

**Financial disclosure forms were not filed as required, nor were the forms used to determine if any conflicts of interest existed.**

**Analysis**

Board Commissioners and BLLC inspectors did not file financial disclosure forms as required, and management did not review the disclosures for conflicts of interest. Although current Baltimore City Code required the forms to be submitted not later than April 30 of each year, as of July 13, 2015, 8 of 16 individuals required to file had not submitted the forms for calendar year 2014, including 7 inspectors and the Board Chairman.

Additionally, between February and April 2015 BLLC hired 4 new inspectors; however, as of July 13, 2015 these employees have not filed a financial disclosure as required. Newly hired employees, in positions requiring a financial disclosure, are required by Baltimore City Code to file within 30 days of hire.

A new Board Chairman and Commissioner were appointed on July 8, 2015 and, as of September 25, 2015, had not filed the required financial disclosure with the City.

BLLC management has not used the publicly available electronic financial disclosure forms to determine if any conflicts exist. In addition, BLLC had not established an ongoing process to help ensure the Board Commissioners and employees complied with State law regarding prohibitions from having any interests in the alcohol beverage industry in any manner. BLLC management did not obtain written statements from each staff member regarding the existence of any potential conflicts, and the City's financial disclosure form does not require this information.

During our prior audit, we were advised by the State Ethics Commission, that although BLLC is a State agency, it is not covered by existing State ethics laws. During the 2014 Legislative Session, State law was updated to require BLLC employees to comply with the Baltimore City Public Ethics Laws and Financial Disclosure provisions. Baltimore City Code specifically includes the Board and its employees as subject to the City ethics laws.

A similar issue was commented upon in our preceding report.

#### **Recommendation 15**

**We recommend that BLLC**

- a. ensure Board members and employees file annual financial disclosure forms as required by the Baltimore City Code (repeat), and
- b. management review disclosure forms for conflicts of interest and establish a process to identify potential conflicts regarding interests in the alcohol beverage industry (repeat).

#### **Finding 16**

**BLLC did not formally evaluate of employee performance on a routine basis as required.**

#### **Analysis**

BLLC did not formally evaluate employee performance on a routine, periodic basis as required by Baltimore City policy. Performance evaluations are used to assess employee job performance, including identifying an employee's strengths, accomplishments and weaknesses, and provide the basis for identifying training and development needs. The lack of routine, formal employee evaluations was commented upon in our preceding audit report.

As of June 2015, 11 of the 16 BLLC employees employed by BLLC had not received a performance evaluation during their tenure, which ranged from one year to more than 10 years. After we questioned the lack of performance evaluations, BLLC prepared evaluations for seven of these employees by July 2015.

Based on State law, almost all BLLC employees are part of Baltimore City's classified civil service. Baltimore City policy requires each supervisor to evaluate each employee's performance six month prior to their anniversary date (interim evaluation) and on their anniversary date (hire date) and to provide formal written performance evaluations at these times.

BLLC developed formal job descriptions for various positions, including inspector positions. These written job descriptions included a definition of the position, examples of job responsibilities, required skills and abilities, and minimum education and experience requirements, and the descriptions could be used as the basis for employee evaluations.

#### **Recommendation 16**

**We recommend that management adhere to Baltimore City policy and provide formal written evaluations for each employee in accordance with policy (repeat).**

**Finding 17**

**Proper internal controls were not established over payroll processing and payroll testing disclosed various problems.**

**Analysis**

Internal controls over payroll, which totaled approximately \$1.8 million in fiscal year 2014 and \$1.6 million in fiscal year 2015, were inadequate. Specifically, BLLC lacked comprehensive written policies and procedures to guide staff in properly administering necessary human resources, overtime approval, and payroll timekeeping functions.

BLLC signed a Letter of Understanding (LOU) with the Mayor and City Council of Baltimore City which was approved on April 14, 2010. The LOU was executed as a result of a February 2007 performance audit that was performed by the Baltimore City Department of Audits which identified various internal control deficiencies. To address some of these deficiencies, the LOU required BLLC to perform certain timekeeping functions. Since this document has not been superseded or rescinded as of September 8, 2015, it is still in effect and should be followed by the BLLC. Our review for compliance with this LOU identified the following conditions:

**Time Records**

Three upper management employees did not record their time on a daily log or timesheet. For these three employees, only leave usage is reported to the timekeeper via email. Additionally, the timekeeper is responsible for his own time entry and can enter the time without supervisory approval. The LOU requires all employees except part-time employees, appeals counsel, and commissioners to sign in and out on the daily log sheet.

Daily log sheets used by other employees were not always completed or the work time on the sheets did not agree with the time entered into the electronic timesheet used to prepare the payroll. We tested 3 weeks of logs and identified 34 instances out of 188 instances where the time on the log did not agree to the electronic timesheet, including 24 instances where either a sign in, sign out time or both were missing from the log. In such cases, the automated time-keeping system enters pre-established default hours for the employees. As a result, the time records were unreliable and could indicate that employees were not paid the proper amounts or were not charged for leave usage as appropriate.

There was no consistent documented supervisory review and approval of daily log sheets. Our review found staff logs used by three office employees were never approved by a supervisor. While the logs for the inspectors were signed

by the Chief Inspector, the Chief Inspector advised us that this signature is only attesting to the accuracy of his work hours recorded on the log, and not the inspectors' recorded hours.

### **Overtime**

Overtime paid to employees lacked a documented approval as required by BLLC management. Between January and June 2015, 11 employees earned 1,609 hours (\$51,000) of overtime. During this period, one inspector was paid for 314.5 hours of overtime totaling approximately \$9,400. The Chief Inspector could not explain why this employee was paid overtime to this extent.

### **User Access**

User access to Baltimore City's timekeeping system is not adequately segregated. Specifically, three employees had full edit and approval access in the system. This access permits a user to enter, adjust, and approve time for all BLLC employees including themselves.

Similar issues were commented upon in our preceding report.

### **Recommendation 17**

**We recommend that BLLC**

- a. ensure employees record time in accordance with the LOU (repeat);
- b. institute written policies and procedures over the processing of payroll to ensure proper internal controls, including the review and approval of all time records by supervisory personnel, the prior approval of overtime, and an adequate separation of payroll processing duties (repeat); and
- c. modify users' system access capabilities to provide appropriate separation of payroll processing duties (repeat).

### **Finding 18**

**BLLC did not digitize its records by July 1, 2015 as required by State law.**

### **Analysis**

As of February 16, 2016, BLLC had not digitized its licensee records and made them available on its website. Furthermore, BLLC had not adopted regulations regarding digitizing its records, including ensuring the safety of personally identifiable information (PII). During our review of licensee files, we sighted PII, such as dates of birth, social security numbers, and bank account information, which would need to be safeguarded when licensee records are made available online. This PII, which is commonly sought for use in identity



theft, should be protected by appropriate information system security controls.

Chapter 346 of the Laws of Maryland, 2014, required BLLC to digitize and post online all licensee records for public review by July 1, 2015 and to adopt regulations regarding this process. BLLC management advised, this project is being handled by the Mayor's Office of Information Technology and BLLC was not sure when it would be completed.

**Recommendation 18**

**We recommend that BLLC work with the City of Baltimore to**

- a. digitize and post all licensee records online as required by law, and**
- b. prepare the required regulations over the digitizing process, including regulations to protect PII.**

## Exhibit 1

### BLLC Licenses Issued and Related Fees as of July 22, 2015

BLLC Licenses Issued and Related Fees		
License Type	Annual License Fee	Number of Licenses Issued as of July 22, 2015
Class A Beer and Wine	\$110	31
Class B Beer and Wine	\$165	14
Class C Beer and Wine	\$83	14
Class D Beer and Wine	\$165	45
Class A Beer, Wine, and Liquor	\$858	225
Class A-2 Beer, Wine, and Liquor	\$858	12
Class B Beer, Wine, and Liquor (seating capacity of 200 or fewer)	\$1,320	316
Class B-BWL (H-M) license	\$6,500	25
Class B-D-7 beer, wine, & liquor	\$1,320	445
Class B Video Lottery Facility	\$15,000	0
Class B Video Lottery Concessionaire	\$5,000	0
Arena License	\$12,000	7
Class C Beer, Wine, and Liquor	\$550	56
Class D Beer, Wine, & Liquor	\$825	57
All other alcoholic beverage licenses	Varies	9
Adult Entertainment License	\$1,000	25

**Source:** BLLC's licensing database as of July 22, 2015

**License Type Class:** A-Package Goods; B-Restaurant; C-Private Membership Club; D-Tavern

**Notes:**

- Class A beer, wine, and liquor licenses are valid for six days a week from 6am to 12am the following day. Class A-2 beer, wine, and liquor licenses are valid for six days a week from 9am to 12am the following day.
- Class B and Class D beer, wine, and liquor licenses are valid for six days a week operations only. A licensee wanting to be open seven days per week must obtain a Class B-D-7 license.
- As commented upon in Finding 3, the casino received an arena license rather than a video lottery facility license due to the lack of correct license type in the licensing system. Additionally, none of the concessionaires in the casino received licenses.

## Exhibit 2

### Additional Fees

Licensees may apply to provide additional services not covered by the basic license. If approved, the applicant must pay an additional fee as shown in the table below.

Additional Fees	
License Type	Annual Fee
Room Service Fee	\$1,000
Live Entertainment (DJ, dancing, etc)	\$500
Outdoor Table service	\$200
Caterer (off premise)	\$500
Special amusement license (for Class D)	\$750
Refillable Container Permit (On sale Licenses)	\$500
Refillable Container Permit (Off Sale Licenses)	\$50

## **APPENDIX**

ALBERT J. MATRICCIANI, JR.  
CHAIRMAN

COMMISSIONERS  
AARON J. GREENFIELD, ESQ.  
DANA P. MOORE, ESQ.

ALTERNATE COMMISSIONER  
HARVEY E. JONES



DOUGLAS K. PAIGE  
ACTING EXECUTIVE SECRETARY

THOMAS R. AKRAS, ESQ.  
DEPUTY EXECUTIVE SECRETARY

STACI L. RUSSELL  
ACTING ASSISTANT EXECUTIVE  
SECRETARY

STATE OF MARYLAND  
**BOARD OF LIQUOR LICENSE COMMISSIONERS**  
FOR BALTIMORE CITY  
231 E. BALTIMORE STREET, 6<sup>TH</sup> FLOOR  
BALTIMORE, MARYLAND, 21202-3258  
PHONE: (410) 396-4377

July 6, 2016

Thomas J. Barnickel, III CPA  
Legislative Auditor  
Department of Legislative Services  
Office of Legislative Audits  
Maryland General Assembly  
301 West Preston Street  
Room 1202  
Baltimore, Maryland 21201

Mr. Barnickel,

The Board of Liquor License Commissioners for Baltimore City (BLLC) would like to thank the Office of Legislative Audits (OLA) for conducting a performance audit of the BLLC as required by State Government Article, Section 2-12220 of the Annotated Code of Maryland for the operations conducted by the agency for the 2014-2015 license years.

Although the BLLC does not agree with every finding outlined in the 2016 OLA Audit (Audit), it does agree with the overall sentiment of the report, which is this: at the time of the Audit (February 2015 – September 2015) the agency lacked comprehensive policies and procedures and management practices to guide effectively staff in each area of its operations and that the lack of these policies and procedures directly led to agency outcomes that did not necessarily comport with State law.

Nevertheless, the OLA's findings only tell a half-story; a story that ended in September of 2015. To have the Joint Audit Committee believe that the OLA's findings detail the current operations of the BLLC would be a mistake. As of this writing – which is almost 11 months after the completion of the Audit – the agency has made significant strides in addressing all eighteen (18) findings identified by the Audit.

In fact, the BLLC can confidently state that as of today, it has come into compliance with sixteen (16) of the eighteen (18) Audit findings, thus achieving an 89% compliance rate. To achieve this rate of success, the agency:

- Drafted and published new editions of the Alcoholic Beverages and Adult Entertainment Rules and Regulations by December of 2015 in compliance with the Alcoholic Beverages Act of 2014.

- Drafted and issued a BLLC Policy and Procedure Manual to all employees. The Manual provides comprehensive policies and procedures that guide agency operations concerning the licensing process, inspection methods, identification and charging requirements for violations.
- Implemented internal weekly and bi-weekly management meetings with the Inspections, Administrative, and Accounting Divisions to ensure that staff practices are achieving identifiable agency benchmarks in compliance with State law.
- Worked with the Mayor's Office of Information Technology (MOIT) to create an effective tracking system that can produce reliable reports to monitor the operations of licensed establishments, inspector performance, and the outcome of inspections to properly monitor the inspection process.
- Implemented internal controls over cash receipts, accounts receivable, and payroll to ensure that monies were properly deposited to the City of Baltimore, debtors to the agency were held accountable, and that payroll responsibilities were diffused to ensure protections for the agency.

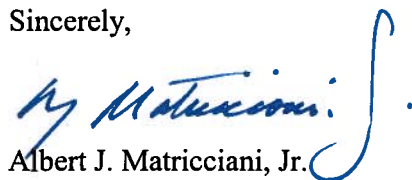
To this end, in addition to the responses to the Audit findings (**Attachment 1**) as requested by the OLA the BLLC has included a copy of the newly revised 2016 Rules and Regulations for Alcoholic Beverages (**Attachment 2**) and Adult Entertainment (**Attachment 3**) and the BLLC's Policy and Procedures Handbook for 2016 (**Attachment 4**). \*

The BLLC does not deny that during the time of the Audit that it was an agency in transition and that at the time of the Audit, the findings identified by the 2013 OLA Audit had not been addressed. However, it should be understood by the OLA and Joint Audit Committee that at the time the Audit was performed the agency was undergoing unprecedented change: within the last three years alone the BLLC has had four different Boards, three different individuals occupying the position of Executive Secretary, and an Inspection Division that saw its personnel reduced by more than 60%.

Even in the face of these unprecedented changes the agency kept its focus on addressing the concerns raised in the 2013 and 2016 OLA Audits. Although the agency was not perfect in addressing each finding identified by the OLA, I believe the agency has made significant strides in becoming an agency that is more accountable, transparent, and effective in the discharge of its duties as required by State law.

If you have any questions or concerns regarding our submission, please do not hesitate to contact me.

Sincerely,



Albert J. Matricciani, Jr.  
Chairman  
Board of Liquor License Commissioners  
For Baltimore City

\*Attachments 2, 3 and 4 are not included within the published report but are separately available on our website.

## **Audit Responses – Licensing**

### **Finding L1 – Lack of Formal Written Policies**

**Issue:** BLLC lacked formal written policies to guide and control the licensing process.

**Response:** After the 2013 Audit by the Office of Legislative Audits (OLA), BLLC staff began to write specific Standard Operating Procedures (SOPs) in various areas of the agency's operations. Much of the information was assumed to be common knowledge of staff and had previously been included in letters and practices. Thus, the basis of the newly adopted SOPs was grounded in the previously drafted materials and existing staff practices. The agency provided these as part of the materials that were reviewed by the audit team.

During the audit process, BLLC management worked to draft a Policy and Procedure Manual that standardized agency operations. Attached to the BLLC's responses to the 2016 Audit Report on the BLLC is the "Board of Liquor License Commissioners for Baltimore City: 2016 Policy and Procedure Manual" ("Manual"). The Manual provides a comprehensive list of policies and procedures that address numerous findings enumerated in the 2016 Audit Report. As per the direction of the Board, a physical copy of the Manual was given to all employees to review and acknowledge compliance therewith. The Board approved the Manual and the BLLC distributed it to each employee in June of 2016.

Accordingly, the BLLC has come into compliance with OLA's finding, as the BLLC has developed and implemented written policies and procedures to ensure that the licensing process is carried out consistently with State law and BLLC requirements. In addition, the BLLC's policies do establish effective controls on agency business and include a documentation process to ensure that fees are paid and required documents are submitted to the agency before the issuance of a license.

### **Finding L2 – Improper Issuance**

**Issue:** BLLC issued licenses without obtaining all required information and payments.

**Response:** Over the last year, the BLLC created protocols – which are documented in the Manual – to ensure that required documentation and proper payment are submitted to the agency prior to the issuance of any license.

**Proper Fees Assessed and Payment:** The issue of proper payment was indeed a concern to the BLLC when the OLA first suggested in the summer of 2015 that there were a number of fees that the BLLC did not collect, but could collect. Specifically, the OLA suggested that the BLLC should be collecting fees for outdoor table service, live entertainment, and catering for all "Class B" hotel and restaurant licensees. As the BLLC had never assessed these fees to all such "Class B" licensees, which included hotels and Arena licensees, the BLLC wanted to ensure such an assessment was authorized under State law. Accordingly, the BLLC reached out to the Department of Legislative Services of the Maryland General Assembly (DLS) and the Attorney General's Office to review exactly what fees the BLLC was authorized

to collect under State law. In January of 2016, the BLLC received confirmation from the aforementioned agencies that it did have the legal authority to collect certain fees enumerated by the OLA. Accordingly, the agency implemented new protocols to collect fees concerning live entertainment, outdoor table service, catering, growler service, and special entertainment for all applicable licensees for the 2016-2017 license renewal year. As a result of the protocols and review process implemented, the BLLC increased its revenues from licensees during the 2016-2017 license renewal year by approximately \$250,000 over renewal year 2015-2016.

**Late Fees:** While the agency does not dispute the OLA’s contention that it identified late renewal applications submitted to the BLLC, the agency does dispute the inference raised by the OLA that the agency did not collect late fees that it should have collected. In some cases, late fees were not assessed because the Board authorized a waiver. Art. 2B §10-301(j)(2)(iii) states that “A license renewal application received by the Board after March 31 may be subject to: 1. Rejection; or 2. A late charge of \$50 for each day the application is filed late, not to exceed \$1,500.” In using the word “may,” the plain language of the law makes explicit a discretionary authority provided to the Board to impose fees to licensees who file a late renewal application. In practice – since at least 2010 – the Board has a policy in place that provides licensees who submit a late renewal application the ability to file a late fee waiver request with the Board. BLLC staff then collects the applications and provides them to the Board, which conducts a review. Upon review, the Board determines whether to grant the fee reduction request or let the late fee stand. As part of the Renewal Process FAQ sheets and subsequent postings on the BLLC’s website in 2015, the Board posted the late fee waiver request form for licensees. The BLLC has included this in **SOP 2.07 – Renewal Late Fee Policy**.

**Auditor’s Comment:** We did not question the Board’s discretionary authority to impose a late fee. Rather, we noted instances in which the opportunity to assess a late fee was not identified or the late fee imposed was not properly calculated.

**Seating Capacity:** The BLLC acknowledges that it did not have proper procedures in place to ensure verification and proper payment concerning seating capacity. To address this issue, the BLLC included an applicable policy in **SOP 2.02 (8) – Alcoholic Beverage Renewal Process** requiring that each licensee’s seating capacity is verified during the supervisory review. This verification applies specifically to “Class B” licensees who are required to pay additional fees as per State law if their seating capacity is over 200. Prior to 2016, the BLLC relied on the self-reporting of licensees to determine the appropriate charge for each licensee. Starting with the 2016-2017 license renewal year, each “Class B” applicant who stipulated a seating capacity of 180 or over was cross-checked with the Baltimore City Fire Department’s database to verify the exact seating capacity of that licensee. In addition, the BLLC discovered a number of licensees who had underreported seating capacities. It is important to note that along with underreporting, the BLLC itself did not have the protocols in place to properly assess those licensees who did indeed enumerate a seating capacity of over 200. As a result of the implementation of these protocols, the BLLC increased its revenue collection during the 2016-2017 license renewal year.

### **Finding L3 – Horseshoe Casino**

**Issue:** The Horseshoe Casino and concessionaires within the Casino were not properly licensed nor charged the correct license fees.

**Response:** The Board concedes that the annual license fee assessed to the Horseshoe Casino (“Casino”) was not correct. As explained below, the improper assessment to the Casino is directly related to the limitations of the BLLC’s receipt and licensing systems, which the Mayor’s Office of Information Technology (MOIT) monitors and maintains. The BLLC also concedes that it did not assess the independent concessionaire license fee on the vendors within the Casino for renewal years 2014-2015 and 2015-2016. Specifically, the lack of legal clarity on the law’s distinction between a “Video Lottery Facility License” (“VLF”) and a “Concessionaire License” (“CL”) hindered the BLLC from assessing the proper fees. It was not until a review of the management agreement structure of the vendors, which was completed in February of 2016, that the agency received clear advisement from the Attorney General as to the proper fee assessment.

**Yearly Fee:** First, as per Art. 2B §6-201(d-1)(4), the language in the law is clear: the annual fee for a Class BWL-VLF license is \$15,000. After passage of the authorizing language of the law, the BLLC attempted to work with MOIT – the agency that oversees the BLLC’s IT and billing systems – in order to create a VLF license-issuing and billing application specifically for the Casino. MOIT was not able to create the new license type in the software application requested by the agency in time to issue the license. As such, the BLLC was forced to issue the Casino an Arena License, as the applicant had completed all the necessary steps for licensure, at a cost of \$12,000 in August of 2014. It was the only official license template that the BLLC could issue to the Casino that would allow it to operate. At the time, the agency informed the Casino that upon creation of the VLF issuing and billing template, it would back-charge the licensee the \$3,000 owed for license year 2014-2015.

After issuance, the BLLC voiced its concerns and dismay to MOIT so that it would expedite its efforts in preparation for the 2015-2016 renewal period. Unfortunately, MOIT was unable to make this change due to the fragility of the BLLC’s electronic licensing database. Thus, during the 2015-2016 renewal period the BLLC was forced to issue yet another Arena License to the Casino, as MOIT failed to provide the agency with a usable VLF issuing and billing template. Yet again, the agency informed the Casino that upon creation of the VLF issuing and billing template, it would back-charge the licensee the \$3,000 owed for license year 2015-2016 as well as what was owed for license year 2014-2015. As of this writing, MOIT has been unable to produce a usable VLF issuing and billing template that the BLLC can use to create and issue a license that the legislature created in 2012. As a result, the BLLC took action and in January 2016 invoiced the Casino for the full amount of the VLF fees that were past due in 2014 and 2015. In addition, the agency created its own template to properly invoice the Casino for the 2016-2017 license year. During April of 2016, the Casino paid in full its \$15,000 obligation to the BLLC for the 2016-2017 license year and, in addition, provided the BLLC with an additional \$6,000 for the back fees owed for license years 2014-2015 and 2015-2016.



**Concessionaire License:** On December 12, 2013 the Board (Chairman Stephan Fogleman Board) approved the application of the license for the Casino. At the time of application, the licensee had only applied for a VLF license. Although the applicant's plans, submitted to both the BMZA and BLLC, alluded to the fact that there would be at least four (4) service restaurants and a "marketplace" with six (6) additional food concepts, the applicant only applied for a VLF license. At the time, the BLLC believed that only a VLF license was needed to support the suggested operations by the applicant. As such, the BLLC did not question the operators of the Casino when the agency was informed that the premises would have approximately seven (7) vendors supplying alcohol service to patrons in restaurants located in various locations on the premises. In addition, the BLLC was comfortable with the management agreement arranged by the Casino between the VLF licensee and its vendors. The agreement held that the VLF licensee was responsible for purchasing all of the alcohol for the facility. After purchase, the VLF licensee would distribute the alcohol to the various vendors who would then reimburse the VLF licensee for its costs. Since the alcoholic beverages were acquired solely through the VLF licensee – as the management agreement between the VLF licensee and the vendors barred the vendors from purchasing alcoholic beverages from distributors – the BLLC reasoned that a VLF license was sufficient to maintain operations under the law.

In September of 2015 the Audit team raised the issue of not charging the vendors as concessionaire licensees. Following up on the issue raised by the OLA, the BLLC contacted the representatives of the Casino to get further clarity on their operations to determine the validity of the OLA's suggestion. Upon receiving all of the information from the Casino (management agreements, vendor layouts, purchasing and distribution of alcoholic beverages information), the agency sought the legal advice of the Attorney General's Office to determine whether the vendors at the Casino should be considered concessionaires under State law and pay the applicable fees. In February of 2016, after reviewing the information pertaining to this matter, the Attorney General's Office concluded that the BLLC should charge four (4) vendors at the Casino a concessionaire's license fees for the 2014-2015 and 2015-2016 license years.

With the clear legal authority in hand, the BLLC in February 2016 invoiced the Casino for the back payments owed. It should be noted that three (3) of the vendors identified by the OLA were in fact Casino-owned entities and not third party vendors as the OLA believed. Accordingly, those three (3) entities were not charged. In February of 2016, the BLLC sent correspondence to the Casino informing it of the monies owed to the agency for the operation of the concessionaires under the BWL-VLF license. The Casino agreed to make all back payment for all concessionaires for the 2014-2015 and 2015-2016 license years and full payment for the 2016-2017 license year. In addition, all BWL-VLC licensees filed applications, background checks were conducted, and financial information was reviewed to ensure that the BWL-VLC licenses issued to the applicants for the 2016-2017 license year complied with State law.

#### **Finding L4 – 180-Day Transfer Rule**

**Issue:** BLLC did not always ensure license transfers were completed within 180 days of receiving Board approval.

**Response:** The BLLC agrees with the OLA’s finding that it did not always ensure that license transfers were completed within 180 days. With the empanelment of a new permanent Board of Commissioners in April 2016, the decision not to follow the Attorney General’s Opinion of April 2015 by the prior Board was reversed. Accordingly, the agency drafted a new SOP to reflect the position of the Board (**SOP 2.01(I)(e) – Process for Transfers, Amendments, and New Licenses**). The agency is reviewing all pending transfer applications – wherein the Board has approved the transfer of a license – to ensure that these applications are in compliance with State law. All applications which are determined not to be in compliance with **SOP 2.01(I)(e)** will be terminated, thus forcing the applicant to reapply for the license transfer if the license subject to transfer is still considered valid.

#### **Finding L5 – Criminal Background Alerts**

**Issue:** BLLC did not receive updates to licensee criminal records as required by State law.

**Response:** The BLLC agrees with the OLA that it did not have a policy in place to require the agency to make a request from the Criminal Justice Information System (CJIS) Central Repository of the State of Maryland for updates on licensee criminal records. However, the BLLC also notes that State law places an obligation on CJIS to provide updates on licensee criminal records to the BLLC, and not the opposite.

As per Art. 2B §10-103(a-1)(7), which states that “when criminal history record information of an applicant or license holder is reported to the Central Repository after the initial criminal history records check is completed, the Central Repository *shall* [emphasis added] provide the local licensing board with a revised printed statement of the criminal record of the applicant or license holder.” A plain reading of the statute indicates that there is a legal obligation on the part of CJIS to provide the BLLC with updated criminal records of its applicants when CJIS is informed of a change.

Nevertheless, the BLLC did draft and implement **SOP 2.02(4) – Alcoholic Beverage Renewal Process**. This SOP requires the Assistant Executive Secretary to make a documented inquiry to CJIS concerning any updates to licensee criminal records for both Alcoholic Beverage and Adult Entertainment licensees for the prior year. This request is to be completed in the month of January each year. In addition, this SOP outlines the procedures that the agency will follow, in accordance with State law, if it is determined that a licensee is found to have sustained a criminal conviction in the past year.

#### **Finding L6 – Procedures and Record-Keeping Practices and Accounts Receivable Reforms**

**Issue:** BLLC lacked procedures and record keeping practices for cash receipts, and accounts receivable did not provide sufficient controls and accountability for the related activity.

**Response – Controls over Cash Receipts and Processing of Collections:** The BLLC takes this issue quite seriously. To address its former lack of controls over cash receipts, the BLLC has drafted and implemented various applicable policies in its Manual. (**SOP 2.11 – Deposits and Reconciliations and SOP 2.15 – Cash Receipt System and Voids**). To remedy the findings concerning cash receipts as

identified by the OLA, the BLLC's policy requires that staff collect and secure all invoices and checks on a daily basis, restrictively endorse any check upon acceptance and processing of applications, assign invoices properly, organize and review check information for proper payment, and batch and deposit all checks with the Department of Finance in accordance with City policy.

**Separation of Duties:** The BLLC is aware of the lack of adequate separation of duties over the case receipts and accounts receivable function. However, the BLLC will note that that it only employs four (4) staff within the administrative division, only one (1) of whom is the Accounting Assistant. Due to the job classifications of this position, the Accounting Assistant is assigned management over cash receipts and accounts receivable functions. The agency has not been able to secure another budgeted position to provide assistance with the Accounting functions of the agency. In fact, due to budget cuts facing the City of Baltimore, the BLLC will lose one (1) funded position for FY2017.

To counter the lack of adequate staffing, the Executive Secretary and Deputy Executive Secretary conduct bi-weekly meetings to review reconciliation reports, cash receipt deposits, collections/accounts receivable status updates, voids issued via the receipt system, and overall agency revenues so that the Accounting Assistant is provided with the necessary oversight to ensure compliance with City Finance policies.

**Reconciliation Process:** With **SOP 2.11 – Deposits and Reconciliations** in place, the Accounting Assistant is required to produce monthly reconciliation reports for review by the Executive Administration. During bi-weekly meetings, the Executive Administration reviews the reconciliation reports to determine if there are any discrepancies between the deposits entered by the agency with the Department of Finance and the revenues identified in City managed accounts. The agency will also request a monthly accounting by the Department of Finance's Revenue Division of all revenues generated by the BLLC and deposited into City accounts. The agency will then reconcile the Department of Finance's information with an agency-generated report of revenues. If there are any discrepancies, the agency shall make inquiries to the Department of Finance to determine and confirm the deposit of the monies and location of the funds.

**Accounts Receivable:** The BLLC agrees with the OLA that it did not have a sound collections policy in place to ensure that accounts receivable were current. **SOP 2.10 – Collections** directly addresses this issue. Starting June 1, 2016, the BLLC now collects the hearing fee (\$100) at the time that application is made to the Board, and not after the hearing. This collections policy negates the investment of additional resources to make collections on applicants that were denied their requests before the Board and no longer have any business before the Board. In addition, the Board also reformed its fine collections policy. Licensees now have only 30 days to either pay or enter into a payment plan with the agency to pay any fines assessed by the agency due to a violation hearing. If no payment is made or the licensee fails to enter into a payment plan, the agency will repossess their licensee until payment is made in full. Lastly, as per the policy, the BLLC shall place holds on all licensees who owe any back fees or fines to the agency. Thus, the licensee will be unable to renew its license with the agency unless all back monies are paid to the agency. Accounts totaling over \$1,000 owed to the agency will be forwarded to the Law Department for collections purposes.

## Audit Responses – Inspections

### **Finding 17 – Lack of Comprehensive Policies and Guidance for Inspectors**

**Issue:** BLLC lacks comprehensive written policies to guide the inspection and investigation processes.

**Response:** The BLLC agrees with OLA that at the time of the 2016 Audit the agency had not yet completed and published comprehensive written policies and procedures to govern the inspection process. However, the BLLC believes that the Auditor’s “finding” does not provide a context for the lack of comprehensive written policies to guide the inspection and investigation processes at the time of the 2016 Audit.

Since late 2013 and throughout parts of 2014, the agency was without a full-time Executive Secretary, Deputy Executive Secretary, Chief Inspector, and Assistant Chief Inspector. The sole full-time administrator – at least until May of 2014 – was the Assistant Executive Secretary who served as Acting Executive Secretary overseeing both the administrative and inspections division without executive support. Furthermore, there was additional turnover within the Inspection Division as numerous inspectors were either laid off, chose to retire, or were terminated. For example, at the time of the 2013 Audit there were three (3) supervisory positions, fourteen (14) full-time inspectors, and five (5) part-time inspectors. At the time of the audit there was only one (1) supervisor, eight (8) full-time inspectors and five (5) part-time inspectors. In addition, as of January 2016, the agency no longer employs part-time inspectors. It was not until December 2014 that the BLLC was able to fully staff its administrative division. Thus, the concentration of the agency was focused on the basic operations of the BLLC. Once fully staffed, the Executive Administration (Executive Secretary, Deputy Executive Secretary, Chief Inspector, and Assistant Executive Secretary) began a comprehensive review of the policies and procedures of the agency beginning in 2015.

In addition, as per Art. 2B §15-112(d)(9)(iv), the Board was also tasked with reviewing its Alcoholic Beverages and Adult Entertainment Rules and Regulations (“Rules”). In August 2015, at the direction of the then newly appointed Board, a Rules Committee was formed with the task of reviewing and drafting a new set of Rules for the agency. The Rules Committee completed its review in the late fall of 2015, and the new Rules were not formally adopted by the Commission until December 17, 2015. Included within the adopted Rules were new standards of operation, which the Board had determined should be resolved before the drafting and issuance of the agency’s SOPs.

Lastly, both the Board and Executive Staff of the agency have seen unprecedented turnover throughout the Audit process. Over the course of the last two years there have been three (3) different Boards commissioned to oversee the agency. In addition, in March of 2016 the Executive Secretary separated from the agency, and in early April 2016 the agency was left without a Board for the first time in its 83-year history, thus temporarily creating a leadership vacuum. In late April of 2016 a new Board was commissioned, thereby providing the steady leadership needed to resolve numerous outstanding issues. One of the most outstanding issues remaining was the approval of the agency’s SOPs, which included SOPs directed toward the entire inspection process within the BLLC’s Inspections Division.

The drafting of the Inspection SOPs and guidelines occurred throughout 2015 and 2016 as the development of such policies was fluid and subject to constant revision and republication. Although there was an emphasis within the agency to draft and adopt policy in an expeditious manner, the Executive Administration wanted to ensure that the final policies and procedures adhered to inspectors' experience, were practical, and were in-line with any of the new Rules promulgated by the Board. Included in the review were policies and procedures of the Inspections Division. Over the course of the last two years the Executive Administration worked with the Inspections Division to draft policies, forms, and procedures addressing the following areas:

- **SOP 3.01 – Special Investigations**
- **SOP 3.03 – Routine Inspections**
- **SOP 3.04 – Compliance Inspections**
- **SOP 3.02 – 311 Response Policy**
- **SOP 3.09 – Posting and Maps**

These policies provide:

- Documentation Standards for all inspections, including violations and evidence to be gathered to sustain violations at Board Hearings.
- Guidelines for review of business and employee records, including alcoholic beverage invoices, employee records, and Alcohol Awareness Certificates.
- Inspector performance expectations, timelines for delivery of work product, and corresponding management monitoring policy.

Due to the collaborative process between the Executive Administration, Inspections Division, and the Board, the BLLC drafted, received approval for, and published its Manual in July 2016. This Manual provides specific guidance to the Inspection Division to ensure effective enforcement of State law and local ordinances relating to Alcoholic Beverages and Adult entertainment within Baltimore City.

#### **Finding I8 – Lack of Effective Tracking System for Monitoring Inspection Activities, Duties, and Outcomes**

**Issue:** BLLC lacked an effective tracking system for monitoring an adequate method to track inspections performed, inspection outcomes, and related enforcement and disciplinary actions taken.

**Response:** The BLLC agrees that at the time of the 2016 OLA Audit (which occurred between February 2015 and September 2015), the agency lacked the capacity to implement an effective tracking system to monitor inspection performance. However, throughout the 2016 OLA Audit period, the agency was working with MOIT to create a database tracking system that would effectively monitor inspector performance. Although the rollout of the database tracking system was slow to develop, as of October 2015 the database had become increasingly reliable. By March 2016, the agency worked with MOIT developers to run reports that monitor the number of inspections performed by each inspector, the outcomes of these inspections, and other types of inspector-related activities. These reports are now

used on a bi-weekly basis with the Inspections Division Administration to monitor inspector activity and hold inspectors accountable for their work product.

While the BLLC does not want to reiterate what was stated in Audit Finding I8, it is important to note that the agency was without a full-time Executive Secretary, Deputy Executive Secretary, Chief Inspector, and Assistant Chief Inspector until December 2014. Once fully staffed, the Deputy Executive Secretary and Chief Inspector were tasked with reviewing the agency's inspection tracking methodology and establishing a process to properly track and analyze inspection data.

**Internal Tracking Spreadsheet (Build-up to Electronic Tracking Database):** Upon completing the review of the agency's inspection tracking methodology, the Executive Administration created an interim solution with technology that was readily available: a tracking spreadsheet that inspectors could fill-out in Excel to record their daily production. This spreadsheet would replace the daily log sheet and make all inspector statistics available to the Executive Administration to monitor daily production. Inspectors were still required to fill-out a paper inspection report for the file to record the substance of their findings with the licensee's file. The Executive Administration viewed this internal tracking spreadsheet as an initial step taken in the automation of the tracking process, with the eventual goal being the creation of an electronic database that inspectors would be able to interact with in real-time via cellular electronic tablets in field.

While there are valid concerns raised by the Audit staff concerning the reliability of the data entered by the inspectors, the BLLC's intent for this data-tracking method was to create a **temporary** platform to record the daily production of inspectors in preparation for a full transition to the database in June 2015. The BLLC began using the spreadsheet in December 2014. Never before had the agency asked inspectors to use an Excel-based platform to record data. To say that the transition was rocky at times was an understatement. Although the Executive Administration held multiple group trainings to instruct inspector staff on how to input the data, numerous one-on-one sessions were held to train and teach inspector staff – none of whom had ever been asked to use the Excel platform previously – the basics of Excel. This setback affected the quality of the data for the first two months of recordation (December 2014 and January 2015). However, by February 2015 the inspection staff began to come into compliance with most data entry expectations. While the BLLC admits there were inconsistencies with the data – duplicate entries/missing entries/inconsistent dates entered – the Chief Inspector did attempt to conduct random samples of inspector performance upon review of the statistics. If there were entries that the Chief Inspector considered questionable, he would follow-up by looking at the actual paper reports filed and, if necessary, speak with the inspector concerning the entry. The BLLC viewed the Internal Tracking Spreadsheet as a successful venture, as it provided a transitional platform to the Electronic database that was introduced in June 2015 to track inspector performance. It was never the intent of the BLLC that the Internal Tracking Spreadsheet be the permanent tool used to monitor inspector performance.

**Establishment of Electronic Tracking Database:** Concurrent with the creation of the Internal Tracking Database, the BLLC was working with MOIT to develop an Electronic Tracking Database to monitor inspector performance. The Electronic Tracking Database would serve as the platform that inspectors

accessed using mobile tablets to enter real-time inspection data from the field. Inspectors were to use an interface that mirrors the paper reports to enter information concerning routine inspections, compliance inspections, special investigations, 311 complaints, postings, and delivery of summonses/notifications to licensees. The data would then be warehoused in a central database and accessible for review, approval, and monitoring by the Executive Administration. The BLLC began work on this project with MOIT beginning in March 2015 with the goal of full operability by June 2015. As of July 2016, the Electronic Tracking Database has proven to be a major step forward in the recordation and monitoring of inspection data. However, the mobile tablet devices have consistently failed in the field; our inspectors are no longer equipped with them. Thus, the agency still provides licensees with paper copies of their inspection reports upon completion, while requiring inspectors to enter their inspection data from a hardwired terminal in the office.

Although inspectors still have to draft paper reports, all inspectors are required to enter all of their written inspection data into the database using their office terminals. The electronic inspection report template requires inspectors to input all relevant information, such as the dates and times of inspection, the name of the inspector, violations noted, and any disciplinary action taken. As of now, licensees are still provided with a paper copy of the inspector's report, which they or the operator in charge signs for. The agency will continue to look to MOIT to recommend and develop the electronic infrastructure that will allow our inspectors to use a tablet in the field so as to track electronically the signatures and dates of the licensees/operators who sign for the inspector reports. Upon completion of their reports, the Assistant Chief Inspector reviews them for accuracy and either approves or rejects the report. If the report is rejected, the inspector who wrote the report is required to provide additional information. It is important to note that within each SOP concerning inspections, the inspectors are required to input their data within one (1) working day of their observations. The Chief Inspector or his/her designee is also required to perform quality control checks as per the each inspection SOP to ensure that inspectors are inputting the information in a timely and accurate manner.

Starting in October of 2015, the agency began working with MOIT to develop reports within the Electronic Tracking Database to track information concerning routine inspections, compliance inspections, special investigations, 311 complaints, postings, and transfer/new application entries. In addition, the agency can now run reports that show inspection statistics per inspector, types of inspections performed, and inspections performed within certain date ranges. However, since inspectors still do not have access to reliable mobile devices, it is taking longer than originally planned to input the data from the field to the database, thus affecting the volume of data that the BLLC had expected to be entered.

The BLLC agrees with the OLA's sentiment that it should monitor inspector performance to ensure that agency benchmarks are met. To achieve this goal, the Executive Administration began conducting bi-weekly meetings with the Chief and Assistant Chief Inspector at the beginning of the 2016-2017 license year to monitor inspector progress toward achieving its annual inspection benchmarks. At these meetings, overall inspection data is reviewed and compared with the annual targets for the agency. At each bi-weekly meeting, the Chief and Assistant Chief are presented with performance data for each inspector, including percentage of inspections completed toward the inspection goal, and whether or



not monthly inspection benchmarks are met. Utilizing real-time data, the Chief and Assistant Chief Inspector can now hold individual inspectors accountable for their performance. In addition, if more resources are needed due to personnel issues, then resources can be allocated accordingly. However, with the new SOPs in place, each inspectors' performance evaluation will be directly related to inspector performance.

Lastly, the BLLC agrees with 2016 Audit Report's finding concerning the range of inspections performed during the 2014-2015 year. However, in January 2016 the BLLC made an exact accounting of inspection data for the 2014-2015 license year and found that the agency completed a total of 3591 inspections. This figure is at the high end of the Auditor's estimate, but within its range. While the OLA is correct in stating that the Inspections Division did not achieve its goal of approximately 5200 inspections, it is important to note that due to retirements, terminations, and other personnel matters, the agency was staffed at an average of 6.25 inspectors for the 2014-2015 license year responsible for approximately 1300 licensed establishments throughout the City of Baltimore.

Months	Total # of Inspections	Total # of FTE
May-14	235	7
Jun-14	363	7
Jul-14	259	5
Aug-14	237	6
Sep-14	268	6
Oct-14	312	6
Nov-14	285	5
Dec-14	298	5
Jan-15	219	5
Feb-15	317	7
Mar-15	156	8
Apr-15	642	8
<b>Totals</b>	<b>3591</b>	<b>6.25</b>

With the stability of the Inspections Division settled and a full accompaniment of seven (7) inspectors (one (1) inspector position was eliminated due to the City's FY2017 budget reductions), the agency believes it can meet its goal of 5200 inspections performed for the 2016-2017 license year.

#### **Finding I9 – Chief Inspector Did Not Document Duties Performed**

**Issue:** The Chief Inspector did not document duties performed.

**Response:** The BLLC disagrees with the OLA finding that there was a lack of documentation concerning the Chief Inspector's work product. Almost all of the work performed by the Chief Inspector during the 2014-2015 license year concerning his role overseeing the Inspections Division involved some sort of recorded documentation. During the 2014-2015 license year, the Chief Inspector was responsible for reviewing all inspection reports submitted by the inspectors on a daily basis. The Chief Inspector took ownership of this responsibility upon being hired in November 2014. Initially, the Chief Inspector would review copies of the paper reports that the Inspectors submitted to ensure that submissions were complete and accurate.



In addition, the Chief Inspector conducted spot-checks of both paper-based and electronic submissions by inspectors. These checks were later documented via email or subsequent inspection reports filed by the Chief Inspector. If the Chief Inspector observed entries that were inconsistent or that upon review merited further investigations, he would obtain a copy of the paper report for review. If he had further questions or concerns upon review of the report, he would contact the inspector by email or in person to discuss the matter. If it was determined that an inspection was incomplete, the inspector would provide the supplemental information necessary to address the deficiency identified by the Chief Inspector. In fact, this standard of review was programmed as an approval path during the 2014-2015 license year, when the agency transitioned to using the Electronic Database: before any inspection report submitted by an inspector could be uploaded to the Electronic Tracking Database, it must have been reviewed and approved by the Chief Inspector. Final submission of the report was only authorized once the Chief Inspector reviewed the emailed report and approved the corrections. This review process was also the means by which the Chief Inspector identified violations, which would be submitted to the Deputy Executive Secretary for review in order to determine if charges were appropriate. This format of review and documentation has and will continue to be adhered to by the new Chief Inspector or his/her designee.

**Auditor's Comment:** As noted in our report, our test of 81 Inspector's Reports completed during the period from May 2014 to April 2015 disclosed no documentation that the Chief Inspector had formally approved those reports. These reports were prepared before the implementation of the BLLC's new electronic database, which BLLC contends has approval path requirements necessitating the Chief Inspector's involvement.

While the BLLC agrees that during the 2014-2016 license year the Chief Inspector did not conduct written performance evaluations every six months for all employees within the Inspections Division as required by Baltimore City's Department of Human Resources, the BLLC can report that the newly installed Chief Inspector evaluated every Inspector and the Assistant Chief Inspector during May of 2016. In addition, the Chief Inspector himself was given a performance evaluation in May 2016 by the Deputy Executive Secretary. Accordingly, everyone who was reviewed received a written copy of their performance evaluation. As per the new BLLC Manual approved by the Board in June 2016, **SOP 1.07 – "Position Description/Chain of Hierarchy/Evaluations"** stipulates that evaluations of employees are to be performed as per DHR policy. DHR policy holds that all employees of the Inspections Division shall receive an evaluation every six (6) months. With this SOP in place, the BLLC will ensure that the Chief Inspector performs the evaluations of his/her staff as required.

**Finding I10 – Lack of Comprehensive Procedures for Processing 311 Complaints and Lack of Adequate Documentation in Closure of Complaints**

**Issue:** BLLC did not properly document the handling and resolution of 311 complaint referrals.

**Response:** While the BLLC did have a 311 policy in place for the 2014-2015 license year, the BLLC agrees that it was not as comprehensive as the current policy – approved in June 2016. Under the system to respond to 311 Customer Service Requests (CSR) created in 2013, inspectors received 311 complaints via email through their departmentally-issued phones and responded accordingly. Once an assigned inspector responded, he/she would send an email response to the CSR Representative and/or the Chief Inspector informing that the 311 complaint had been investigated and providing the results of that investigation. Until June 2014, the Board had a CSR Representative position that coordinated the responses of items into the City system and sent follow-up emails to staff regarding 311 complaints. With the departure of this employee in June 2014, all inspections staff and some key clerical staff members were trained on the use of the CSR system in late May 2014.

Upon further reviewing the system in late 2014, the Executive staff determined that despite training and emails, there was still lag time between when the Inspector responded to the complaint and when the data was actually entered into the system. Early in 2015, the agency engaged with MOIT to create a software application that inspectors could use to receive, respond to, and close-out any customer service requests via their departmentally-assigned phones. The service would also allow them to refer the customer service requests to other departments through the CSR system.

In October 2015, the BLLC was able to successfully introduce its 311 software application and train its staff through the **SOP 3.02 – 311 Response Policy** it had drafted during 2015 subsequent to approval in June of 2016. The results were immediate and astounding: the clearance and closure rate of complaints within 72 hours jumped from 45% to 79% in October 2015. In November 2015 the clearance and closure rate of complaints was 97%. In December of 2015 it was 94%. As of this past May 2016, the BLLC closed out 100% of its complaints within 24 hours. The Board’s goal is to achieve an 85% clearance and closure rate of complaints within 72 hours. Below is a graph showing the monthly data concerning 311 Closure rates within 24-, 48-, and 72-hour periods. As you can see, in June 2016 the BLLC still maintains its 100% closure rate of complaints within 24 hours:

Year	Month	Total	< 24 Hours	24-48h	48-72	72h and Over	% Closed 24h	% Closed 24-48h	% Closed 48-72h	% Closed 72H and Over
2015	Jul	24	2	2	0	20	8%	8%	0%	84%
2015	Aug	30	2	1	0	27	7%	3%	0%	90%
2015	Sep	36	9	2	1	24	25%	6%	3%	67%
2015	Oct	44	28	2	0	14	64%	5%	0%	31%
2015	Nov	71	58	2	0	11	82%	3%	0%	15%
2015	Dec	76	62	6	0	8	82%	8%	0%	10%
2016	Jan	63	57	5	0	1	90%	8%	0%	2%
2016	Feb	74	65	5	1	3	88%	7%	1%	4%
2016	Mar	98	82	6	2	8	84%	6%	2%	8%
2016	Apr	94	90	2	0	2	96%	2%	0%	2%
2016	May	81	81	0	0	0	100%	0%	0%	0%
2016	June	54	54	0	0	0	100%	0%	0%	0%

\*This chart was created on June 22, 2016\*

With the new policy and application in place, the BLLC can claim success in achieving its closure rate goal.

Lastly, the BLLC agrees with the OLA that 927 complaints were closed in the relevant time period when only 495 complaints were received. However, the BLLC has a valid explanation for the aberration. In early 2015, the Board and MOIT met to discuss some of the 311 CSR issues confronting the agency. One issue raised by MOIT was to clear out the backlog of approximately 600 CSR complaints from the system which had not been addressed (most of these complaints were approximately 2-3 years old). It would have been impossible for the Board to complete a proper investigation of a complaint that was over two years old. In addition, since a number of the backlogged complaints had been investigated by inspectors who no longer worked at the agency, it was impossible to determine the results of investigations into 311 complaints. As such, after discussing and being advised by MOIT to clear out the backlog of cases, the Board decided to empower the Chief Inspector to clear out the backlog so that the agency could assess its ability to close 311 complaints in a real-time manner starting in 2015. This action was a one-time event to address an MOIT concern and create a clear path for the implementation of the 311 application rollout.

#### **Finding I-11 – Use of Sound Meters**

**Issue:** BLLC did not use sound meters during the investigation of noise complaints.

**Response:** The BLLC concedes that it does not always use sound meters to investigate loud noise complaints, despite the purchase of meters in late 2013 and their recalibration in September 2015. However, upon a review of its policies and those of surrounding jurisdictions, the agency will discontinue the use of sound meters as its primary means of investigating noise complaints, but utilize the meters as an “investigative tool” if deemed necessary.

There are multiple reasons that supported the BLLC’s decision to utilize sound meters as an investigative tool. Furthermore, it should be noted that the agency does not solely rely on the utilization of sound meters to monitor decibel levels at licensed establishments. First, the maintenance and calibration of the two (2) sound meters that are in possession of the BLLC is costly and inefficient. In March 2015 the BLLC began the two-fold process of calibrating the sound meters, as it discovered that calibration has to occur regularly and that this process is costly. This process took approximately two (2) months to complete. As such, the agency did not receive the sound meters until early September 2015. Moreover, the use of smaller and less expensive units was not helpful and at times produced readings that did not necessarily prove violations of noise complaints. The agency realized that only two (2) sound meters allocated to an agency with eight (8) inspectors – who worked varying hours – had practical limitations; there simply were not enough sound meters to go around. More importantly, inspectors have noted that ambient sound levels from neighbors may exceed the decibel standard; even with the highly tuned equipment, these inaccuracies occur.

Second, investigation of noise complaints did not necessarily require a sound meter. Investigators had been trained by supervisory staff to make determinations as to what a “reasonable” level of sound emanating from a licensed establishment was. If the level was deemed inappropriate, inspectors would enter the establishment and speak with the bar manager or licensee and advise the individual of the

complaint. It is common practice at the agency for inspectors to return to the same location later in the evening to follow-up and determine if the sound emanating from the establishment was “reasonable.” If it was not, the inspector would violate the establishment.

**Other Jurisdictions:** In addition, like-sized liquor board jurisdictions in the State of Maryland do not use sound meters to investigate loud noise complaints of licensed establishments. A survey of the Liquor Boards of Prince George’s County and Montgomery County indicated that the liquor inspectors in those jurisdictions do not use sound meters to investigate loud noise complaints at licensed establishments. In Prince George’s County, a “reasonable” standard – like the one suggested for Baltimore City – is used to determine if an establishment is in violation of a noise complaint. In Montgomery County the Liquor Inspectors use a “reasonable” standard or co-investigate the matter with an Environmental Protection Agency Agent from Montgomery County and issue a citation if appropriate. In Baltimore County, only the Police Department investigates loud noise complaints that emanate from licensed establishments. Anne Arundel County’s liquor Board has two (2) decibel meters that inspectors may take out for a complaint for noise. They work in conjunction with the Anne Arundel Police Department, which supplies sound meters to their officers to issue loud noise citations.

Given these reasons, the BLLC will continue its current practices and will use sound meters for special investigation as deemed necessary by the Chief or Assistant Chief for recurring noise complaints. The agency will continue to go out and investigate loud noise complaints and charge such violators based on a “reasonableness” standard, which is used in like-sized jurisdictions around the State of Maryland.

## Audit Responses – Disciplinary Procedures

### Finding DP12 – Lack of Guidance

**Issue:** BLLC lacks written policies and procedures for certain aspects of the disciplinary process.

**Response:** The BLLC agrees that during the 2014-2015 license year, it did not have a written policy and procedure addressing the disciplinary process. However, with the approval of the agency's Manual in June 2016, the Board has addressed this issue through the implementation of **SOP 3.05 – Violation Review and Charging Process**. **SOP 3.05** details the procedures the agency uses to review alleged violations, charge licensees, set charging deadlines, issue summonses, and/or subpoena witnesses.

Upon taking office in May of 2014, the Deputy Executive Secretary began an assessment of the disciplinary process. Although there were unwritten policies and procedures in place that had guided the violation process, the Deputy Executive Secretary worked in cooperation with the Executive Secretary, Assistant Executive Secretary, Chief Inspector, Inspectors, and the Police Department to develop **SOP 3.05**. In August 2015, the framework for **SOP 3.05** was created to cover the following areas of the Violation process:

- Review of Law Enforcement Reports and Expectations of Documentation and Verification
- Tracking of Police Reports and Subsequent Outcomes
- Review of BLLC Investigative Reports and Expectations of Documentation and Verification
- Procedures for Reviewing Questionable Reports
- Preponderance of Evidence Test (i.e., prima facie standard of proof to charge a case)
- Charging Process Format for Alleged Violations

**Charging Violations:** The BLLC disagrees with the Auditor's implied contention that the BLLC cannot assign decisions to charge violations to a single supervisory employee. Decisions to charge violations by a single supervisory employee based upon his or her personal judgment after a review of the evidence gathered by investigators is a very common occurrence in regulatory and enforcement agencies. Such prosecutorial discretion was first recognized by the Supreme Court in *Oyler v. Boles*, 368 U.S. 448. It was further developed and made applicable to actions through Executive bodies in *Newman v. United States*, 382 F2d 479. The BLLC is an Executive Commission whose membership is composed of commissioners selected and appointed by the Mayor and President of the City Council – the Chief Executive of the City of Baltimore and The President of the Legislative Body (City Council) of the City of Baltimore. In this capacity the BLLC regulates and enforces State law as an arm of Baltimore City's Executive Branch. As such, the BLLC is empowered to designate a single supervisory employee and empower that individual with authority to determine if there is a prima facie standard of proof to charge a case (as per the Violation and Charging SOP) and, if so determined, to charge such case. Given this legal framework, the BLLC has designated the Deputy Executive Secretary, who is a barred attorney in the State of Maryland, as the individual to make such determination.

**Auditor's Comment:** The audit finding focused on the lack of guidelines for determining which violations were to go to the Board and did not question the assignment of decision-making responsibilities to a single supervisory employee.

**Timeliness of Hearings:** The BLLC agrees with the Auditor's finding that there should be a formal policy to specify the timeframe within which violations go before the Board. Within **SOP 3.05 (E)(2) – Violation Review and Charging Process**, the Board has outlined the following policy concerning the scheduling of hearings for violations once there has been a determination made that a prima facie violation has occurred: "The timeframe for charging a violation may vary, but the Deputy Executive Secretary shall attempt to charge and schedule a violation hearing not later than 180 days after a determination that a prima facie violation of Federal, State, or local law, including the BLLC rules and regulations, has occurred." This policy takes into consideration two major practical issues that the BLLC has confronted. First, this policy allows the BLLC to conduct long-term investigations into establishments wherein, to prove a violation, the agency needs to show a pattern of unlawful behavior. Second, this policy acknowledges that at any given time, multiple investigations by various agencies may be happening contemporaneously. Thus, to maximize efficiency and not hinder an ongoing investigation, it is both prudent and efficient to charge all offenses under one single charging document. The BLLC believes that this policy provides an appropriate standard for conducting hearings while balancing the need to allow law enforcement agencies to conduct their investigations without undue hindrance by the agency.

**Finding DP13 – Lack of Formal Process to Effectively Monitor Closed Establishments to Ensure Compliance with State Law**

**Issue:** BLLC did not establish a formal process to effectively monitor closed establishments to ensure that alcoholic beverage licenses had expired in accordance with State law.

**Response:** The agency slightly disagrees with this assessment because the BLLC took steps from the previous audit to put into place methods of noting the closure of establishments. In late 2013 the Acting Executive Secretary drafted and implemented a policy to document and issue letters to licensed establishments that were repeatedly closed at the time of inspection. Although there was a policy to identify these establishments, the BLLC admits that there was not an effective plan in place to monitor these establishments. However, the agency now has in place **SOP 3.08 – Non-Operating Locations**, which outlines the policies and procedures the BLLC uses to document and track establishments that are closed at the time of inspection.

As part of this policy, the following steps are to be taken by the Inspections and Administrative Divisions to address non-operating locations:

1. If the establishment is closed, the Chief Inspector shall send a letter to licensee at home or other location noted. Do not send mail to the licensed address.
2. There shall be a note place in the inspection database that the establishment was closed and that a letter was sent due to establishment not found operating on date/time.

3. Based on the letter, the licensee may set up an appointment for a follow-up inspection
4. If no response, schedule another check to see if operations have resumed.
5. If no further operations, note in file and on database that license is not operational for renewals.
6. Have administrative staff add a HOLD to the database for renewal so that licensee can verify operations.

As part of this policy the Board also uses 311 calls and citizen emails to follow up on non-operating locations. Although not formalized, during the 2014-2015 license year the Chief Inspector had begun to utilize this process to track non-operating locations. In addition, the BLLC continues to work with the Mayor's Office of Information Technology (MOIT) to develop a report which would allow the agency to run a weekly query to determine which licensed establishment, based upon BLLC inspection reports, had been non-operational for at least 180 days. Once the agency is able to incorporate this report into the database, **SOP 3.08 – Non-Operating Locations** will be updated to reflect a weekly mandatory check by the Chief Inspector or his/her designee of the non-operational establishments and appropriate follow-up actions to investigate, report, and document inspector findings.

**Termination of Licenses:** With the implementation of this policy the agency will no longer bring to the attention of the Board establishments that have failed to operate for more than 180 days (and have not requested a hardship extension or fall into another exception as outlined by State law); the agency, as per State law, upon making such a finding shall terminate the license.

**Hardships Extensions:** The agency would disagree with the repeat finding on this matter because significant steps have been taken by the Board in approving Hardship Extensions. In 2014 through the present, the Board has required staff to provide information on inspections and last dates of operations. Moreover, the Board has asked licensees to provide other information, such as purchases from vendors and sales receipts, to verify that they were truly operating. The Board also amended within its 2016 Alcoholic Beverages Rules and Regulations **Rule 2.15 – Hardship Extensions** which stipulated additional information for licensees to file when completing this type of request. In addition, the two most recent Boards have made a point in asking questions in regards to operations during the Hardship Extension Hearings. With these safeguards in place, the agency will be in a better position to ensure compliance.

## **Audit Responses – Management Oversight**

### **Finding M014 – Lack of Management Practices to Oversee and Manage Agency**

**Issue:** BLLC had not implemented management practices to effectively oversee and manage the agency's functions.

**Response:** The BLLC agrees with the OLA's assessment that the agency had not implemented management practices to effectively oversee and manage the agency's functions at the time that the OLA conducted the Audit. However, it is of importance to note that the OLA began its Audit of the agency's functions in January 2015. At that time the agency had just fully staffed its Executive Administration (Deputy Executive Secretary started in late November 2014 and Assistant Executive Secretary returned to the agency in December 2014). In addition, the agency raised this issue with the Joint Audit Committee on December 9, 2014 in its testimony as it requested for additional time before an Audit was conducted. At that hearing, members of the Joint Audit Committee agreed to inquire from the Attorney General's Office if the Audit could be delayed – implying acknowledgment of the agency's position. However, the Joint Audit Committee's request was denied as it did not comport with State law. Accordingly, it should be understandable that the agency had not fully implemented management practices to oversee and manage the agency's functions at the time the OLA conducted its Audit in assessing the 2014-2015 license year, and years prior.

As of June 2016, the agency has in place a set of Rules and Regulations governing the framework of its operations. In addition, it has implemented an agency Manual, which not only details the policies and procedures of the BLLC, but also guides employee work product in line with the agency's mission. Along with these tools in place, the agency has also created the following weekly and bi-weekly practices to oversee the status of its operations and to determine the effectiveness and efficiency of its operations:

**Docket Prep Meeting:** Once per week, administrative staff and the Executive Administration meet to discuss the formation of the upcoming Board agendas and dockets. At this meeting, applications are identified as complete or incomplete, decisions to post a complete application are made, hardship applications are reviewed, decisions to docket violation cases and a review of said cases are conducted, decisions to advertise and a review of prior advertisements are conducted, and the docket – to be posted at least fourteen (14) days before the hearing date – is decided upon. These meetings ensure that the administrative staff has the most reliable information at hand concerning decisions to be made in the formulation and posting of the docket.

**InspectorStat Meeting:** On a bi-weekly basis the Chief and Assistant Chief Inspector meet with the Executive Administration to discuss the production of the Inspections Division. With the creation of the Inspection Database, the Executive Administration has access to reliable data and shares such with the Chief and Assistant Chief to ensure that production within the Inspections Division is meeting monthly benchmarks. At this meeting, individual inspector performance, special investigations, posting report compliance rates, and response times to 311 complaints (See **SOP 3.02 – 311 Response Policy** for further information on this policy) are discussed to determine if inefficiencies are present and what, if any, additional resources need to be directed to ensure that targets are achieved.



**AccountingStat Meeting:** On a bi-weekly basis the Executive Administration meets with the Accounting Assistant II to review if the agency's accounting practices are in compliance with Baltimore City Department of Finance (DOF) policy. A review of the Accounting Assistant II's work is conducted to ensure: Cash Receipt Deposits match Level III DOF Reports; voided receipts during the reporting period are cross-checked against invoices issued and checks received; monies owed through the agency's accounts receivables are being collected and, in cases where collections have failed, holds are placed on licenses or matters are forwarded to the Law Department for collections; transfer reports to be issued to the Comptroller are reviewed and signed-off; and an accounting of all revenues received by the agency are reviewed.

The BLLC believes that, through the implementation of these practices, management will have all the necessary tools to manage and oversee agency operations and ensure that its resources are used in the most efficient and effective manner in achieving the goals of the agency.

#### **Finding MO15 – Financial Disclosure Forms and Financial Interest Inquiries Not Filed as Required**

**Issue:** Financial Disclosure forms were not filed as required, nor were forms used to determine if any conflicts existed.

**Response:** The BLLC agrees that during the time period in which the OLA conducted its Audit of the agency, inspectors and members of the Board had not filed appropriate financial disclosure documentation in compliance with the Baltimore City Ethics Code. To address this oversight the BLLC drafted **SOP 1.06 – Financial Disclosure and Ethics Questions**, which details the policies the agency has put in place to ensure that all employees and members of the Board file financial disclosure forms with the City of Baltimore and provide information to the agency concerning any financial interests in the alcoholic beverages industry, and that management staff review such submissions for conflicts of interest.

As per **SOP 1.06**, all members and employees of the Board must annually file their financial disclosure forms with the City between March 1<sup>st</sup> and April 30<sup>th</sup> of each year. New employees and Board members are to file their financial disclosure forms within thirty (30) days of hire. In addition, BLLC staff worked with counsel within the City's Board of Ethics to draft a question concerning "any financial interests in the beverage industry" in order to come into compliance with State law. All employees are required to answer the question within thirty (30) days of hire. Both the financial disclosure forms and financial interest responses are reviewed by the Executive Secretary or his/her designee for conflicts. If conflicts exist, then those matters will be discussed with the Board of Ethics to determine if they can be cured and determine the appropriate manner in which it shall be done.

As of June 2016, all employees and members of the Board have filed current financial disclosure forms with the City of Baltimore. In addition, all employees and members of the Board have provided responses to the financial interest questions. All forms and responses have been reviewed by Executive Staff and, at this time, all employees and members of the Board are in compliance with the Baltimore

City Ethics Code and State law.

#### **Finding MO16 – Untimely Evaluations of Employee Performance**

**Issue:** BLLC did not formally evaluate employee performance on a routine basis as required.

**Response:** The BLLC agrees that during the time period in which the OLA conducted its Audit of the agency, the agency did not formally evaluate employee performance in compliance with Baltimore City Department of Human Resources (DHR) Policy. To address this oversight the BLLC drafted **SOP 1.07 – Positions/Chain of Hierarchy/Evaluations**, which details the policies the agency has put in place to ensure that all employees receive timely evaluations in compliance with DHR Policy.

It should be noted that only with the passage of the Alcoholic Beverages Act of 2014 did all employees – save for the Executive Secretary and Deputy Executive Secretary – become subject to Baltimore City’s classified civil service. Before the Act’s passage, most of the Inspections Division was not subject to the policies of Baltimore City’s classified civil service and, accordingly, performance evaluations within the division were not issued in a timely fashion. However, as per **SOP 1.07 (c)**, evaluations of staff are to conform to DHR policy, which requires that all City Union of Baltimore (CUB) employees are evaluated every six (6) months and that Managerial and Professional Society (MAPS) employees are evaluated on an annual basis.

Starting in February 2016, the BLLC began formal evaluations of all its employees. In February 2016, all administrative staff were evaluated. In May 2016, all Inspection Division staff were evaluated. In June 2016, the sole MAPS employee (Deputy Executive Secretary) of the agency was evaluated. All evaluations were performed in compliance with DHR policy and were issued to each employee. As per **SOP 1.07**, the BLLC will be conducting evaluations of staff within the Administrative and Inspections Divisions later this year to remain in compliance with DHR evaluation policy.

#### **Finding MO17 – Lack of Proper Internal Controls over Payroll Processing**

**Issue:** Proper Internal Controls were not established over payroll processing, and payroll testing disclosed various problems.

**Response:** The BLLC agrees that during the time period in which the OLA conducted its Audit of the agency, the agency had not yet established proper internal controls over payroll processing. However, the OLA’s finding should be placed in context. As stated earlier, in January 2015 the agency had just fully staffed its Executive Administration. Prior to January 2015, the former Executive Secretary was the only personnel within the agency trained to input payroll processing information. This conflict was compounded by the fact that, at the time the former Executive Secretary started with the agency in May of 2014, she had no staff trained in inputting information to the payroll processing system; as such she had to do it – along with almost all other agency functions – by herself. In January 2015, the Assistant Executive Secretary was assigned payroll functions, and the Executive Secretary was assigned the

function of final approver. However, at the time of assignment of these roles, no formal policy had been implemented to provide oversight to the payroll processing function. Realizing the potential confusion that could occur, the agency began to develop policies and procedures to address these issues.

**Payroll Processing:** The creation of **SOP 1.08 – E-time Processing and Approval** was intended to address the lack of proper internal controls cited by the OLA. The policy outlines strict duties, guidelines, and responsibilities for both the Office Secretary III (who is responsible for all time entries) and the Executive Secretary (who is responsible for reviewing all entries and providing final approval). In addition, both the policy and approval pathways do not allow for any staff member to approve his or her own time. The Office Secretary III cannot approve his/her own time without both his/her direct supervisor's approval and the Executive Secretary cannot approve his/her own time without the Deputy Executive Secretary's Approval and the Office Secretary's submission.

**Time Records:** The creation of **SOP 1.02 – Sign In and Sign Out Timesheets** was intended to address the lack of a daily log and proper approval pathway for each employee's bi-weekly submission of time records. The policy requires that each employee submit a timesheet, which his/her supervisor must approve before submission to the Office Secretary III for approval. Such approval by the supervisor attests to both the accuracy of the work hours of the employee and his/her recorded hours. Lastly, timesheets can only be submitted by the employee who performed the work and must agree with all times entered into the payroll processing system.

**Overtime:** The creation of **SOP 1.08 – E-time Processing and Approval** was intended to address the lack of proper internal controls over the assignment of overtime cited by the OLA. It should be noted that during the 2014-2015 license year, the agency lost numerous staff members to illness, retirement, or termination, and the agency had to assign overtime to existing employees to conduct normal business operations. In addition, overtime hours were assigned specifically by then-Chairmen Thomas Ward and Benjamin Neil to conduct investigations and field checks. Nevertheless, **SOP 1.08** now mandates that in accordance with DHR policy, any overtime sanctioned by the agency must receive prior approval from the Executive Secretary before the employee is assigned overtime. If the employee chooses to work hours outside his/her normal working scheduled without prior overtime approval from the Executive Secretary, then that employee will not receive overtime compensation.

**Letter of Understanding (LOU):** During the time of the OLA's Audit, the LOU was brought to the attention of management and the issue was forwarded to then-Chairman Ward. He instructed the former Executive Secretary and Deputy Executive Secretary to ignore the provisions and move forward with scheduling staff for the need of the agency as per the State legislative reforms passed in 2013. Furthermore, it was explained that LOU only applied to those employees who were part of the CUB non-represented and/or civil service and would logically exempt the Executive Secretary and Deputy Executive Secretary who are MAPS employees. Under Chairman Neil, the work schedules of the Inspections Division were amended to allow inspectors to work from 10:00am to 6:00pm, thus allowing inspectors to conduct inspections during the lunch and early evening hours. An evening shift, staffed by one (1) inspector, was created to address any 311 complaints that were received on Sundays through Thursdays from 3:00pm to 11:00pm. An additional evening shift, staffed by one (1) inspector, was

created to address any 311 complaints that were received on Fridays and Saturdays from 7:00pm to 3:00am. In a review of the agency's operations, the newly empanelled Board will review the LOU and make a determination on whether or not to address and re-draft the LOU.

### **Finding MO18 – Lack of Record Digitization**

**Issue:** BLLC did not digitize its records by July 1, 2015 as required by State law.

**Response – Digitization:** The BLLC agrees with the OLA that its records were not digitized and posted on-line as required by July 1, 2015. While the BLLC agrees with the OLA statement, the OLA makes no mention that the BLLC, as defined as a City agency for purchasing purposes, had little to no control over the purchasing and oversight of the services necessary to implement the digitization of its records. As per City law, the BLLC had to rely entirely on MOIT and other City agencies to both purchase and manage the project, which directly led to the inordinate delay in implementation. Thus, in addition to turnover within MOIT, the agency did not have the resources to advance the digitization project, which directly led to the delay in its implementation.

Attempts at digitization first occurred in the Fall 2013 when the Acting Executive Secretary first met with MOIT to discuss and prepare for a requisition to be issued for the project. However, due to MOIT delays and a change in project managers, the project was postponed until May 2014. At this time, the Executive Secretary – during her first weeks on the job – met with MOIT and identified the digitized records project as the agency's top technology priority. Agency staff worked diligently with MOIT project managers in evaluating software, assessing records and developing a scope of work. As a result of their combined efforts, the BLLC was awarded a budget outlay to purchase the services it needed to implement the project. In October 2014, MOIT informed the BLLC that the project manager assigned to the digitization project had been replaced and that MOIT would reassign staff shortly thereafter. In January 2015, MOIT finally did assign the BLLC another project manager to aid in the implementation of the project. MOIT and the BLLC then worked together to come up with specifications for the project and worked toward completing a Request for Proposals (RFP) to be issued.

In April 2015, the second project manager separated from MOIT, and again the BLLC was left without a project manager. It was not until June 2015 that MOIT assigned a project manager to BLLC for the scanning project. This project manager continued to work with the BLLC on the RFP, which was finally issued in late 2015. In August 2015, Xerox was chosen as the vendor for the contract. However, once the vendor was selected, BLLC had to work with the City's Bureau of Accounting and Purchasing (BAPS) to draft a contract that met specifications. It took the City more than two months to draft and complete the contract. It was not until late November 2015 that the contract was actually placed before the Board of Estimates for review and passage. After passage, Xerox met with the BLLC and MOIT in January 2016 to begin the planning for the scanning project. It was at this point that Xerox informed the BLLC that the earliest it could start the project was in late March of 2016.

Xerox did begin in earnest the digitization project in late March 2016. Throughout the months of April, May, and June, the scanning team has worked to scan all of the records required to be maintained as

per State law and catalogue them into a centralized database. As per Xerox, MOIT, and the BLLC it is the hope to have its records digitized and posted on-line and available to the general public by late July of 2016. Since being named to the Board, Chairman Albert J. Matricciani Jr. has been in regular communications with the Mayor's Office of Baltimore City to ensure that the necessary support and resources are provided by MOIT to achieve this goal.

**PII:** The BLLC agrees with the OLA that at the time of the 2014-2015 Audit, the agency did not have a formal policy concerning the protection of Personal Identifiable Information (PII). However, the BLLC would like to note that the digitization project Request for Proposal (RFP) was not even issued by the time the OLA completed its Audit. Once the RFP was issued to Xerox in November 2015, the BLLC worked with the Attorney General's Office to draft a policy concerning PII in anticipation of the upcoming digitization project. Based on the work with the Attorney General's Office, the BLLC drafted **SOP 2.12 – MPIA – Protection of Personal Information**, which details the agency's policies concerning protecting the PII of its licensees while remaining compliant with the Maryland Public Information Act (MPIA). The policy was thoroughly vetted by the Attorney General's Office before its approval by the Board. Upon the award of the contract for digitization, the BLLC worked with MOIT and Xerox to understand the requirements of **SOP 2.12** and to create a scanning process that would be in compliance. The BLLC discussed the scanning process procedures with the Attorney General's Office, which reviewed these procedures and confirmed them for compliance with **SOP 2.12**. Only after approval of the procedures by the Attorney General's Office was Xerox allowed to begin work on the digitization project.

AUDIT TEAM

**Stephen C. Pease, CPA**  
Audit Manager

**Catherine M. Clarke, CPA, CIA, CFE**  
Senior Auditor

**Charles H. Hinds, IV, CPA**  
**Amanda L. Howell**  
**Annette L. Manning**  
**Richard Tran**  
Staff Auditors