

Audit Report

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

November 2018



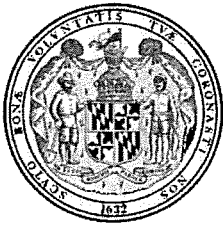
OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

For further information concerning this report contact:

Department of Legislative Services
Office of Legislative Audits
301 West Preston Street, Room 1202
Baltimore, Maryland 21201
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
Website: www.ola.state.md.us

The Office of Legislative Audits operates a Fraud Hotline to report fraud, waste, or abuse involving State of Maryland government resources. Reports of fraud, waste, or abuse may be communicated anonymously by a toll-free call to 1-877-FRAUD-11, by mail to the Fraud Hotline, c/o Office of Legislative Audits, or through the Office's website.

The Department of Legislative Services does not discriminate on the basis of age, ancestry, color, creed, marital status, national origin, race, religion, gender, gender identity, sexual orientation, or disability in the admission or access to its programs, services, or activities. The Department's Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Requests for assistance should be directed to the Information Officer at 410-946-5400 or 410-970-5400.



DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

November 28, 2018

Senator Craig J. Zucker, 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 fiscal compliance audit of the Department of Labor, Licensing and Regulation (DLLR) – Division of Labor and Industry (DLI) for the period beginning May 19, 2014 and ending March 18, 2018. DLI is responsible for the safety inspections of boilers, pressure vessels, elevators, amusement rides, and railroads. It also enforces certain protective labor laws and administers the Maryland Occupational Safety and Health Act.

Our audit disclosed that DLI did not have a process to ensure the consistent issuance of citations to, or assessments of allowed penalties on, entities that failed to obtain or pass the required elevator, boiler, or pressure vessel inspections. For example, DLI did not issue any citations to entities that failed to obtain or pass the required elevator inspections and thus were operating elevators without a valid certificate of inspection during the period between August 2015 and November 2017. According to agency records as of March 30, 2018 there were 3,131 elevators (approximately 13 percent of the number of total registered elevators) that had been operating for more than 60 days without a valid certificate of inspection. In addition, as of April 3, 2018, there were 1,731 boilers and pressure vessels (3 percent of the total registered) that had been operating for more than 60 days without a valid certificate.

DLI also lacked assurance that the outsourced management system used to manage the registration and safety inspections of the elevators, boilers, pressure vessels, and amusement rides was protected against operational and security risks. The related contract did not require the service organization maintaining the system to periodically obtain an independent review of controls. DLI also did not perform periodic reviews of user access capabilities for this system and, as a

result, several users had access capabilities that were not required for their job duties.

In addition, DLI was not effectively monitoring and ensuring that contractors and subcontractors on certain State-funded construction projects were paying the required prevailing wages. Finally, proper controls were not established over certain collections.

DLLR's response to this audit, on behalf of DLI, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by DLI.

Respectfully submitted,

A handwritten signature in black ink, reading "Gregory A. Hook". The signature is written in a cursive, flowing style.

Gregory A. Hook, CPA
Legislative Auditor

Table of Contents

Background Information	4
Agency Responsibilities	4
Status of Findings From Preceding Audit Report	4
Findings and Recommendations	5
Safety Inspections	
Finding 1 – The Division of Labor and Industry (DLI) did not have a process to ensure the consistent issuance of citations to, or assessments of allowed penalties on, entities that failed to obtain and pass the required elevator, boiler, or pressure vessel inspections.	5
Regulatory Management System	
* Finding 2 – DLI lacked assurance that the outsourced management system was protected against operational and security risks.	7
* Finding 3 – DLI did not perform periodic reviews of user access capabilities for the regulatory management system, resulting in several users with inappropriate access.	8
Prevailing Wage	
Finding 4 – DLI was not effectively monitoring and enforcing contractor compliance with the State’s prevailing wage requirements.	9
Cash Receipts	
* Finding 5 – DLI had not established adequate accountability and control over certain collections.	11
Audit Scope, Objectives, and Methodology	13
Agency Response	Appendix

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

Background Information

Agency Responsibilities

The Division of Labor and Industry (DLI) is a separate unit within the Department of Labor, Licensing and Regulation. The mission of DLI is to protect and promote the health, safety, and employment rights of Maryland citizens. Specifically, DLI administers State laws that deal with employment issues, work-related safety and health issues, and prevailing wages, as well as safety inspections of amusement rides, boilers and pressure vessels, elevators, and railroads. According to the State's records, DLI's expenditures for fiscal year 2017 totaled approximately \$17.2 million.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the four findings contained in our preceding audit report dated March 31, 2015. We determined that DLI satisfactorily addressed one of these findings. The remaining three findings are repeated in this report.

Findings and Recommendations

Safety Inspections

Background

The Division of Labor and Industry (DLI) is responsible for ensuring that safety inspections of registered boilers, pressure vessels, and elevators are performed in accordance with State law. Most inspections are required to be performed annually, while certain boilers and pressure vessels are to be inspected biennially. Although some inspections are performed by DLI personnel, the majority of inspections are performed by third-party entities. As of April 3, 2018, DLI was responsible for ensuring the safe operation of 53,710 boilers and pressure vessels and 23,873 elevators.

Boilers, pressure vessels, and elevators are not permitted to be operational without a valid certificate of inspection. A certificate of inspection is issued by DLI after all violations identified during the inspection, if any, have been corrected. By law, DLI may issue civil penalties up to \$5,000 for each boiler, pressure vessel, and non-public elevator in violation. If entities continue to operate a boiler, pressure vessel, or elevator with an expired certificate, or if violations are not corrected timely, additional penalties may be levied up to \$1,000 per day.

Finding 1

DLI did not have a process to ensure the consistent issuance of citations to, or assessments of allowed penalties on, entities which failed to obtain and pass the required elevator, boiler, or pressure vessel inspections.

Analysis

DLI did not have a process to ensure the consistent issuance of citations or assessments of allowed penalties on entities which failed to obtain and pass the required inspections and thus were operating boilers, pressure vessels, or elevators without a valid certificate of inspection. The citations serve as notification to entities with expired certificates, and direct the entities to obtain the required boiler, pressure vessel, or elevator inspection and submit the required inspection documentation to DLI.

The failure to ensure that the required elevator, boiler, and pressure vessel inspections are obtained and passed could result in their ongoing use in an unsafe manner. According to agency records, which we tested and found to be reliable, as of April 3, 2018, there were 1,731 boilers and pressure vessels that had been operating for more than 60 days without a valid certificate of inspection. In addition, as of March 30, 2018, there were 3,131 elevators that had been operating

for more than 60 days without a valid certification of inspection, of which 2,124 elevators were operated by non-public entities and therefore were subject to the aforementioned penalties.

DLI did not issue any citations to entities which failed to obtain and pass the required elevator inspections during the period between August 2015 and November 2017. In addition, while DLI began issuing these citations in November 2017, it did not attempt to collect any penalties for the 1,846 citations issued to elevator operators through March 30, 2018. In this regard, during this period, there were 28 entities that voluntarily submitted checks totaling approximately \$22,500 in payment of the penalties referenced on their citations; however, DLI returned the funds.

As of April 3, 2018, DLI also did not issue any citations and assess penalties since December 2015 to entities that failed to obtain and pass the required boiler and pressure vessel inspections. Based on our review of 10 boilers and pressure vessels with expired certificates as of April 3, 2018, we noted that their certificates had been expired for periods from 108 to 1,236 days with no citations issued or penalties assessed by DLI.

The operation of boilers, pressure vessels, and elevators without a valid certificate of inspection does not necessarily mean that they have not been inspected. Rather, in certain instances inspections may have been performed but noted violations had not been corrected or the necessary documentation submitted to DLI.

Recommendation 1

We recommend that DLI institute a process to ensure it issues citations and assesses penalties to entities which fail to obtain and pass the required inspections, including those noted above.

Regulatory Management System

Background

Since November 2002, DLI has contracted with a vendor to host, maintain, and support a web-based regulatory management system. This outsourced system manages the registration and tracking of boilers, pressure vessels, elevators, and amusement rides; the scheduling and documentation of required inspections; the issuance of inspection certificates; and enforcement actions for violations or other non-compliance with regulatory requirements.

The contract value is approximately \$880,000 for the term beginning January 1, 2013 and ending December 31, 2018. The system is used collaboratively by DLI and other State and local regulatory agencies, as well as by insurance companies who perform boiler inspections for DLI. These insurance companies also provide funding for this system. According to State records, through April 10, 2018, DLI has paid the vendor approximately \$569,000 under the current contract.

Finding 2

DLI lacked assurance that the outsourced management system was protected against operational and security risks.

Analysis

DLI lacked assurance that the outsourced management system for boilers, pressure vessels, elevators, and amusement rides was protected against operational and security risks. The contract did not require the vendor, a service organization, to periodically obtain an independent review of controls and provide DLI with the resultant report. In lieu of these reports, DLI had not performed security reviews of the service providers' operations. Consequently, there was no assurance that the service provider had established adequate security controls over system data.

The American Institute of Certified Public Accountants has issued guidance concerning examinations of service organizations. Based on this guidance, customers, such as DLI, may obtain from service organizations an independent auditor's report referred to as a System and Organization Controls (SOC) for Service Organizations report. There are several types of SOC reports, with varying scopes and levels of review and auditor testing. One type of report, referred to as a SOC 2 Type 2 report, includes the results of the auditor's review of controls placed in operation and tests of operating effectiveness for the period under review and could include an evaluation of system security, availability, processing integrity, confidentiality, and privacy.

At our request, DLI contacted the vendor to see if a SOC 2 Type 2 report had been performed. The service provider responded that it had obtained a SOC 2 Type 1 report for the period ending June 30, 2017. A SOC 2 Type 1 report is limited to an evaluation of the system controls as of a point in time, while a Type 2 report provides an evaluation and related testing of the vendor's system and control environment over a period of time, providing greater assurance that the system was sufficiently protected.

Best practices require that vendors demonstrate compliance with industry information security requirements, and that customer entities regularly obtain

from the vendors related reports that evidence such compliance. This condition was commented upon in our preceding audit report, to which DLI responded that future contracts would include the necessary SOC review requirements.

Recommendation 2

We recommend that DLI

- a. ensure that future contracts include provisions requiring service organizations to annually obtain SOC 2 Type 2 reviews for outsourced systems (repeat), and**
- b. obtain and review these SOC 2 Type 2 reports and take appropriate action to ensure that all critical operational and security-related concerns are properly addressed (repeat).**

Finding 3

DLI did not perform periodic reviews of user access capabilities for the regulatory management system, resulting in several users with inappropriate access.

Analysis

DLI did not perform periodic reviews of user access capabilities for the regulatory management system. Consequently, several users had system access that was not required. Furthermore, the system did not provide output reports of changes made by third-party insurance inspectors (such as to remove boiler and pressure vessels from the system) that could be used to ensure any such changes were proper.

We noted that 8 of the 152 active users as of April 9, 2018, had administrative access even though it was not required for their job responsibilities. The administrative access allowed these 8 employees to add, modify, and delete user access roles on the regulatory management system, including their own. In addition, these users could change and remove boilers, pressure vessels, elevators, and amusement rides from the regulatory system and could modify and delete inspection invoices and inspection violations. When we brought this situation to its attention, we were advised that DLI removed administrative access or deactivated the accounts for 7 of these users. DLI also advised us that it is working with the vendor to restrict the capabilities of the administrative access role so that it cannot be used to add, modify, and delete user accesses. DLI believes the eighth employee needs administrative access but the employee should not have user access modification capabilities.

In addition, access assigned to 96 third-party boiler and pressure vessel insurance inspectors to record inspection information also allowed them to remove boilers

and pressure vessels from the system. Because the system is used collaboratively by DLI and insurance company inspectors, DLI cannot further restrict this access. While DLI personnel reviewed inspection activity recorded by third-party inspectors, this review would not identify instances when a boiler or pressure vessel had been removed, and no output reports of changes made by these inspectors were available. Similar conditions were commented upon in our preceding audit report.

Recommendation 3

We recommend that DLI

- a. perform a periodic documented review of user access capabilities for the regulatory management system and ensure users are assigned only those capabilities needed to perform job duties (repeat), and**
- b. work with the system vendor to develop appropriate access restrictions and to provide output reports that can be used to ensure boilers and pressure vessels removed from the regulatory management system are proper (repeat).**

Prevailing Wage

Finding 4

DLI was not effectively monitoring and enforcing contractor compliance with the State's prevailing wage requirements. The automated system was not properly flagging questionable contractor payroll reports, required payroll report reviews were not conducted, and fines were not assessed.

Analysis

DLI was not effectively monitoring and enforcing contractor compliance with the State's prevailing wage rate requirements. Our review disclosed that DLI's automated prevailing wage system was not properly flagging all questionable payroll reports for review. These self-certified payroll reports are submitted by the contractors and are recorded by DLI in its automated prevailing wage system for monitoring purposes. In addition, DLI did not ensure its investigators reviewed the required number of payroll reports to monitor compliance with the requirements. Finally, DLI did not consistently assess fines to contractors when certified payroll reports were not submitted timely.

- DLI's prevailing wage system was not flagging payroll reports, for investigative review, when the reports evidenced possible non-compliance with the prevailing wage requirements. As of May 7, 2018, the system had flagged for review only 8 of the 99,005 certified payroll reports submitted

since August 20, 2017. By comparison, during fiscal year 2017, the system flagged 17,538 reports for review. We were advised by DLI management that the reduction in flagged payroll reports occurred because, beginning in August 2017, the flagging program was not being consistently applied to payroll reports, although DLI management could not provide an explanation as to why this had occurred.

In addition, we observed that the system flagging logic did not include all situations representing potential violations of the prevailing wage law. For example, the system was not programmed to flag payrolls that evidenced employees working more than 10 hours in a day but who did not earn overtime wages as required.

- DLI did not ensure its investigators reviewed the required number of certified payroll records. When selecting reports to review, DLI directed its investigators to first review all payroll reports that were flagged by the system. If the flagged reports did not represent at least 10 percent of all submitted reports, the investigators were to select additional reports to ensure that 10 percent of all submitted reports were reviewed. However, during fiscal year 2017, investigators had only reviewed 2,001 of the 17,538 reports flagged by the system and, in total reviewed 10,797 reports, representing only 7 percent of the 153,675 reports submitted.
- DLI did not consistently assess fines to contractors which failed to submit their certified payroll reports within 14 days after the end of each pay period. State law provides that a \$10 fine shall be assessed for each day a contractor is late submitting its certified payroll report to DLI. According to information from the certified payroll reports as recorded in DLI's automated prevailing wage system, we calculated that approximately \$7 million in late submission fines were due for fiscal year 2017, but DLI only collected \$40,000. According to DLI personnel, these fines were not assessed because DLI only enforced collection from contractors with a history of submitting late payroll reports. However, we noted contractors who repeatedly submitted late payroll reports but were not required to pay fines. For example, during the audit period, one contractor submitted 166 payroll reports for nine project for periods of 10 to 673 days late, which should have resulted in approximately \$368,000 in fines. However, the contractor was not assessed and did not pay any fines during our audit period.

Contractors and subcontractors on State-funded construction projects of \$500,000 or more are required to pay employees no less than the prevailing wage rates, as determined by DLI. These entities are required to submit self-certified payroll

reports listing the worker classifications and wages paid for every pay period under the contracts. DLI uses its automated prevailing wage system to record contractor self-certified wage data and to help identify possible violations of the prevailing wage law.

DLI is required to monitor compliance with the prevailing wage rate requirements. Under State law, entities failing to pay the prevailing wage rates are required to make restitution to the employees. In addition to the late submission fines, these entities may be fined \$20 per day for each employee paid less than the established wage rate. According to DLI records, during fiscal year 2017, at its direction, entities paid approximately \$476,000 to employees for wage underpayments and \$21,000 in related fines for these underpayments.

Recommendation 4

We recommend that DLI ensure

- a. the automated prevailing wage system is working as intended and is configured to flag all potential violations of prevailing wage laws;**
- b. investigators review the required number of certified payroll reports, including all reports flagged as having potential violations; and**
- c. fines are assessed and collected when companies fail to submit payroll records timely.**

Cash Receipts

Finding 5

DLI had not established adequate accountability and control over certain collections.

Analysis

DLI had not established adequate accountability and control over certain collections. According to its records, DLI collected approximately \$1.9 million during fiscal year 2017. Our review of procedures at six DLI units with fiscal year 2017 collections totaling approximately \$1.6 million, disclosed the following conditions:

- Collections at three units totaling approximately \$320,000 during fiscal year 2017 were not recorded immediately upon receipt. Rather, checks were stored in a safe until the disposition of the checks could be determined before being recorded.

- Collections were not always deposited timely. Our review of collections received at all six units for 10 days during fiscal years 2017 and 2018, totaling approximately \$213,000, disclosed that collections from 8 days, totaling \$86,000, were deposited from 2 to 14 business days after disposition of the checks was determined.
- Deposit verifications at one unit were inadequate because they were performed by an employee who also processed the related collections. Collections received by this unit totaled approximately \$685,200 during fiscal year 2017.
- An employee who processed collections at one unit had access to modify the related accounts receivable records in DLI's regulatory management system. As a result, this employee could alter the accounts receivable record and misappropriate funds without detection. Collections at this unit in fiscal year 2017 totaled approximately \$212,000 and generally related to inspection fees and related activity.

Similar conditions regarding the lack of initial recordation, timely deposits, and segregation of duties were included in our preceding audit report.

The Comptroller of Maryland's *Accounting Procedures Manual* requires the establishment of sufficient internal controls over collections, including initial accountability over collections received, timely deposits, independent verification of collections to deposit, and adequate separation of cash receipt processing duties.

Recommendation 5

We recommend that DLI

- immediately record cash receipts upon receipt (repeat),**
- deposit all cash receipts in a timely manner (repeat),**
- ensure that deposit verifications are performed by employees who are independent from the collection process (repeat), and**
- ensure that employees involved with cash receipts functions are independent from the accounts receivable functions (repeat).**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Department of Labor, Licensing and Regulation (DLLR) – Division of Labor and Industry (DLI) for the period beginning May 19, 2014 and ending March 18, 2018. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine DLI's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included cash receipts, accounts receivable, and DLI's monitoring of compliance with certain laws pertaining to prevailing wages, as well as safety inspections for boilers, pressure vessels, and elevators. We also determined the status of the findings contained in our preceding audit report.

Our audit did not include certain support services provided to DLI by the DLLR – Office of the Secretary. These support services (such as payroll processing, purchasing, maintenance of accounting records, and related fiscal functions) are included within the scope of our audit of the Office of the Secretary.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of DLI's operations and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to

determine data reliability. We determined that the data extracted from these sources were sufficiently reliable for the purposes the data were used during this audit. We also extracted data from DLI's automated systems used for monitoring safety inspections and certified payrolls for prevailing wages for the purpose of testing compliance with State laws and regulations. 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. Finally, we performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

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

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

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

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect DLI's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to DLI that did not warrant inclusion in this report.

The DLLR – Office of the Secretary's response, on behalf of DLI, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise DLLR regarding the results of our review of its response.

APPENDIX



OFFICE OF THE SECRETARY
500 North Calvert Street
4th Floor
Baltimore, MD 21202

November 15, 2018

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

Dear Mr. Barnickel,

The Department of Labor, Licensing and Regulation (DLLR) respectfully submits the enclosed response to the Office of Legislative Auditor's (OLA) report of the Division of Labor and Industry for a period beginning May 19, 2014 and ending March 18, 2018.

Of the five (5) audit findings, the department has initiated measures to strengthen internal controls and improve processes to mitigate deficiencies identified in the October 2018 audit report.

DLLR would like to thank the audit staff who conducted the audit of the Division of Labor and Industry. Their professionalism and respect to our staff and processes is much appreciated. The audit helped identify deficiencies and we are appreciative of their diligence and dedication.

Should you have any questions, feel free to contact me or our Commissioner of Labor, Matthew Helminiak.

Best Regards,

A handwritten signature in black ink that reads "Kelly M. Schulz".

Kelly M. Schulz
Secretary

**Department of Labor, Licensing and Regulation
Division of Labor and Industry
Response to Legislative Audit
May 19, 2014 - March 18, 2018**

Findings, Recommendations and Response

Safety Inspections

Finding 1

DLI did not have a process to ensure the consistent issuance of citations to, or assessments of allowed penalties on, entities which failed to obtain and pass the required elevator, boiler, or pressure vessel inspections.

Recommendation 1

We recommend that DLI institute a process to ensure it issues citations and assesses penalties to entities which fail to obtain and pass the required inspections, including those noted above.

Response:

DLI concurs with the finding and agrees with the recommendation and, in fact, implemented a more robust plan to issue citations in November of 2017. A dedicated citations management unit has been established in the Safety Inspections department and is focused on timely issuance of citations, penalties when applicable, and collections of assessed fines. From November, 2017 through October 31, 2018, DLI has issued 6,088 citations and applicable penalties to elevators, boilers, and pressure vessels that are in violation.

Department of Labor, Licensing and Regulation
Division of Labor and Industry
Response to Legislative Audit
May 19, 2014 - March 18, 2018

Regulatory Management System

Finding 2

DLI lacked assurance that the outsourced management system was protected against operational and security risks.

Recommendation 2

We recommend that DLI

- a. **ensure that future contracts include provisions requiring service organizations to annually obtain SOC 2 Type 2 reviews for outsourced systems (repeat), and**
- b. **obtain and review these SOC 2 Type 2 reports and take appropriate action to ensure that all critical operational and security-related concerns are properly addressed (repeat).**

Response:

DLI concurs with the finding. The contract for the outsourced management system was that was in effect during the 2015 audit was still in effect throughout this audit cycle. Immediately after review of the 2015 audit, the department began to work with the service provider to resolve this issue. The vendor was successful in completing an initial assessment in June 2017, which led to the SOC 2 Type 1 report being issued on June 30, 2017. This report had been made available to the legislative audit team during this recent audit cycle.

In December 2017, prior to the completion of the project, the contracted vendor was purchased by another company, which resulted in the need to begin the SOC 2 certification process again. The operating system is transitioning to the new owner's hosting facility. The service provider is committed to the SOC 2 Type 2 certification process and will communicate progress and share the reports with DLI as they become available. Future contract renewals will include requirements for SOC 2 Types 1 & 2 reviews.

DLI agrees with the recommendations:

- A. A provision requiring the vendor to annually obtain SOC 2 Type 2 reviews for the Safety Inspection Unit operating system will be included as procurement requirements for the new contract to be awarded in 2019, and all future contracts.
- B. DLI will ensure a provision requiring submission of the SOC 2 report within 30 days of completion is included in the new, and future, contract language. Upon receipt, DLI will review the report and ensure the vendor maintains an "unqualified" or "modified opinion" result for each of the audit categories. In addition, contract language will provide that the vendor is responsible for all costs incurred to submit to the SOC 2 review and responsible correcting within 90 days any adverse opinions as well as any associated costs.

Department of Labor, Licensing and Regulation
Division of Labor and Industry
Response to Legislative Audit
May 19, 2014 - March 18, 2018

Finding 3

DLI did not perform periodic reviews of user access capabilities for the regulatory management system, resulting in several users with inappropriate access.

Recommendation 3

We recommend that DLI

- a) **perform a periodic documented review of user access capabilities for the regulatory management system and ensure users are assigned only those capabilities needed to perform job duties (repeat), and**
- b) **work with the system vendor to develop appropriate access restrictions and to provide output reports that can be used to ensure boilers and pressure vessels removed from the regulatory management system are proper (repeat).**

Response:

- A. Users are now more thoroughly reviewed regularly by DLI IT staff and updates are made as new users are added and removed (for example, as employees leave State service). A report to show when this occurs is not a function in the database software at this time but is being incorporated into new contract language for 2018 and future contracts. In addition, DLI requested the vendor to implement a prompted review mechanism that will require the system administrator in DLI to answer a series of questions once a month confirming the access levels of each user.
- B. DLI requested the vendor to make changes that will correct the different needs of system users' access to limit access to only what is required to perform job duties of each user; the request is currently issued as a high priority and completion is expected before November 30, 2018. This will allow more flexibility for employee workflows and ensure future compliance. Additionally, the vendor has been asked to incorporate an output report that clearly identifies which boilers or pressure vessels were removed in the system, when they were removed, and which user performed the action. That output report will be reviewed and verified quarterly the Chief Boiler Inspector. Any inconsistencies will be investigated, corrected if necessary, and documented. Both the user access and removal of boiler or pressure vessel units output report functionality will be a provision of the new 2018, and all future, contracts.

Department of Labor, Licensing and Regulation
Division of Labor and Industry
Response to Legislative Audit
May 19, 2014 - March 18, 2018

Prevailing Wage

Finding 4

DLI was not effectively monitoring and enforcing contractor compliance with the State's prevailing wage requirements. The automated system was not properly flagging questionable contractor payroll reports, required payroll report reviews were not conducted, and fines were not assessed.

Recommendation 4

We recommend that DLI ensure

- a) the automated prevailing wage system is working as intended and is configured to flag all potential violations of prevailing wage laws;**
- b) investigators review the required number of certified payroll reports, including all reports flagged as having potential violations; and**
- c) fines are assessed and collected when companies fail to submit payroll records timely.**

Response:

DLI concurs with the findings, agrees with the recommendations, and has already taken the follow abatement steps:

- A. Corrective Action: Since the problem was detected on April 25, 2018, Office of Information Technology (OIT) staff has been working to improve the performance of the nightly payroll processing as well as other aspects of the prevailing wage application. Some of these improvements are currently undergoing final stage testing. In addition, Prevailing Wage staff will work with OIT staff to make additional improvements and changes to the existing applications.
- B. Corrective Action: Investigators will begin to review 10% of all submitted payrolls and 100% of flagged payrolls within two weeks of submittal. When a close-out request is submitted all remaining unreviewed payrolls will be reviewed before close-out is issued, resulting in 100% of all submitted payrolls being timely reviewed with any necessary investigatory and resolution action taken. The unit will implement and be fully in compliance with this change in procedures before the end of fiscal year 2019.
- C. Corrective Action: late fees will be assessed and collected when companies fail to submit payroll records timely and any waivers of the fees are subject to supervisory review and an additional step of Program Manager approval. Each request includes justification with documentation for consideration of approval. All documentation is signed and dated and is contained in affected case files. DLI acknowledges the assessed balance of late fees generated by the operating system and will undertake an

Department of Labor, Licensing and Regulation

Division of Labor and Industry

Response to Legislative Audit

May 19, 2014 - March 18, 2018

analysis to ensure the accrued late fees have been properly assessed and any balance is addressed.

Department of Labor, Licensing and Regulation
Division of Labor and Industry
Response to Legislative Audit
May 19, 2014 - March 18, 2018

Cash Receipts

Finding 5

DLI had not established adequate accountability and control over certain collections.

Recommendation 5

We recommend that DLI

- a) **immediately record cash receipts upon receipt (repeat),**
- b) **deposit all cash receipts in a timely manner (repeat),**
- c) **ensure that deposit verifications are performed by employees who are independent from the collection process (repeat), and**
- d) **ensure that employees involved with cash receipts functions are independent from the accounts receivable functions (repeat).**

Response:

DLI concurs with the finding, agrees with the recommendations, and has already taken the following corrective actions:

- A. Corrective Action: During the audit period one unit failed to provide adequate logs for checks received. After a conversation with the internal audit team and review of the unit's policy it was confirmed that the daily transmittal log would be sufficient as a check log. This was corrected immediately at the time of the audit and a check log and daily transmittal log are both being used in the units. Completed.
- B. DLI, in conjunction with Office of Administration, will process checks in a timely manner and strictly adhere to the Comptroller of Maryland's *Accounting Procedures Manual*
- C. DLI has requested access directly to the online bank records for the person completing independent verification so the person performing the verification is comparing information received directly from the bank instead of a copy of mailed statement.
- D. DLI will ensure employees involved with the cash receipts functions do not perform duties related to accounts receivable functions.

AUDIT TEAM

Heather A. Warriner, CPA
Audit Manager

Lauren E. Franchak, CPA
Senior Auditor

Gary B. Staples
Staff Auditors