



**Department of Legislative Services  
Office of Legislative Audits**

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## **Performance Audit**

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

Report Dated March 28, 2013

Presentation to the Joint Audit Committee

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### Audit Overview

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- Chapter 263 of the Laws of Maryland, 2011, effective October 1, 2011, requires the Office of Legislative Audits (OLA), at least once every 3 years, to conduct a performance audit of the Board of Liquor License Commissioners for Baltimore City (BLLC).
- The purpose of the audit was to evaluate the effectiveness and efficiency of the BLLC management practices and the economy with which BLLC uses resources.
- The law also states that the audit focus on BLLC operations related to licensing, inspections, disciplinary procedures, and management oversight.
- This represents the first OLA audit of the BLLC.



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### BLLC Overview

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- BLLC's responsibilities include
    - processing applications and issuing licenses to sell beer, wine, and liquor;
    - licensing and regulating adult entertainment businesses;
    - conducting periodic inspections of businesses licensed to sell alcoholic beverages;
    - conducting disciplinary proceedings for license violations; and
    - collecting license fees and disciplinary fines.
  - BLLC issued approximately 1,360 alcoholic beverage and adult entertainment licenses as of December 1, 2011.
  - License fees range from \$82.50 to \$12,000 depending on the license type.
  - BLLC had a full-time staff of 25 and 5 part-time employees. For FY 2012, BLLC revenues totaled \$2.2 million and expenditures totaled \$2 million.
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### Audit Objectives

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1. Licensing - to evaluate BLLC's procedures over alcoholic beverage licensing and to determine if the licensing process complied with State law and Board requirements.
2. Inspections - to 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. Disciplinary Procedures - to evaluate the disciplinary process and determine whether BLLC complied with applicable State law, as well as Board rules and regulations.
4. Management Oversight - to determine whether proper oversight exists over BLLC operations.



## **Audit Methodology**

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We conducted comprehensive reviews and tests of numerous BLLC licensing, cash receipts and payroll records, and automated systems. Much of this effort was directed at developing licensing statistics (not always readily available) and verifying the reliability of BLLC data. Our work included

- interviewing Board commissioners, BLLC employees, and other City and State employees;
  - compiling a database, from BLLC's paper license files, of all activity related to licensees with 2011-2012 licenses, including licensee information, inspection activity, and disciplinary actions;
  - performing tests using the database and BLLC's licensee files and automated systems; and
  - surveying personnel from liquor boards in other MD jurisdictions, employees of various related national organizations, and other states to obtain information on liquor board operations and to identify any consistent best practices. None were found.
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## **Key Audit Issues**

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- In each area of BLLC's operations we reviewed, comprehensive written policies and procedures were lacking. Staff were provided with minimal formal guidance for processing licenses, conducting inspections of licensed facilities, and handling disciplinary actions for instances of noncompliance with requirements.
- BLLC lacked processes for management to effectively oversee and determine the efficiency and effectiveness of operations. When automated systems existed, management did not generate reports that could be used to monitor performance and, for certain critical operations, no automated system existed and no manual processes had been developed for management reporting.
- These deficiencies were contributing factors for a number of findings identified in the report.



## Objective 1 – Licensing

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### Licensing Policies

BLLC lacked formal written policies to direct staff in processing alcoholic beverage license applications, renewals, and transfers. Also, controls were not in place, such as a documented supervisory review process, to ensure licensees provided adequate documentation and paid proper fees (**Finding 1**).

### Licensing Documentation

BLLC frequently issued licenses without receiving all required documents from licensees or applicants to support the application (**Finding 2**). Our review of 1,360 issued licenses found missing documentation.

- Automated records did not note payment of personal property taxes, as required by State law, for 207 licenses, while related documentation was missing from 534 manual files.
  - BLLC's licensing system did not record the existence of a valid trader's licenses for 358 cases, as required by BLLC procedures.
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## Objective 1 – Licensing (cont.)

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### Licensing Process:

Our test of the licensing process disclosed that BLLC often did not comply with State law and its own regulations (**Finding 3**). Our test of 30 license files (10 new, 10 renewals, and 10 transfers) found that only 2 met all requirements and noted several significant documentation problems.

- For 10 new licenses reviewed, OLA noted that for 6 the inspectors did not document their verification of the establishment's proximity to schools and churches.
- For 8 of 18 new and transferred licenses tested, BLLC staff did not document that a review of applicants' criminal history information had been completed as required. (This policy did not apply to two transfers, which were only changes of location).





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### Objective 1 – Licensing (cont.)

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#### Licensing Fees

BLLC could not account for all fees for licenses issued and did not always assess late fees allowed by State law (**Finding 4**). For example, we could not locate evidence of payment for 19 licenses issued (totaling over \$20,000) and that BLLC could have assessed late fees of \$86,300 for the 2011 license renewal period, but only assessed fees totaling \$23,550.

#### License Transfers

License transfers were often not completed within the 180-day period as required by State law (**Finding 6**). Our test of 10 transfers found that 4 were completed between 246 and 706 days after the Board approved the transfer. However, legal advice on this issue is unclear as to whether Board compliance with the 180-day license transfer period is mandatory.



## Objective 2 - Inspections

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### Inspection Policies and Procedures

BLLC lacked comprehensive written policies and procedures to govern the inspection process (**Finding 8**).

- Existing procedures did not detail the process to be used to conduct inspections and the specific criteria for evaluating each area covered during an inspection. Staff advised OLA that they apply common sense and their own criteria to assess licensee compliance during an inspection.
- There was no written requirement to specify the frequency for conducting inspections of licensees. Our review of inspections performed over a 12-month period found that 202 licensees had not been inspected, while 15 had been inspected 10 or more times.



## Objective 2 – Inspections (cont.)

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### Monitoring of Inspectors

BLLC lacked a method to monitor inspections performed, including the completion of the mandatory number of inspections by each inspector (**Finding 9**). For example, guidelines required each full-time inspector to perform 4 routine inspections daily; however, none of the 12 full-time inspectors met this requirement for the same 12 month period – the percentage of days the inspection requirement was not met for all inspectors was 83%.

### Inspector Workloads

BLLC had not assessed workload requirements or actual staffing needs and OLA concluded that the number of full-time inspectors appeared excessive based on BLLC's workload (**Finding 10**) . Based on 4 inspections per day, OLA estimated an annual workload of 872 inspections per inspector and found that the percentage of estimated annual workload not completed by the 12 inspectors ranged from 41% to 95% (for an average of 64%).

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### Objective 2 – Inspections (cont.)

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#### Part-time Inspectors

BLLC did not properly monitor its part-time inspectors (**Finding 11**). State law states that BLLC shall employ part-time inspectors. Although the related employment contract required each inspector to complete 20 inspections per month, this was not monitored. For example, the 2 part-time inspectors who worked all year, together only completed 56% of the required annual inspections, but were paid the full contracted amount.

#### Monitoring by Inspection Supervisors

The 2 inspection supervisors did not document duties performed and did not account for the work performed by inspectors (**Finding 12**). Supervisors did not document the performance of required duties, including training, supervising, and evaluating inspectors, and ensuring the timely completion of investigations. For example, inspectors provided OLA with 449 Inspector's Reports dated from 11/30/07 to 4/11/12 that had not been filed as of 4/20/12.

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## Objective 2 – Inspections (cont.)

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### 311 System Complaints

BLLC routinely either did not follow-up timely on public complaints, as reported through Baltimore City's 311 Complaint System, or failed to document the resulting investigations and resolutions.

- BLLC lacked written policies for processing and documenting investigations and resolutions of 311 complaints (**Finding 14**). The two BLLC complaint investigators were not required to document the results of their investigations. Also, BLLC closed cases in the 311 System prior to investigating the complaint.
  - Our test of complaints found that complaints were often not investigated timely, complaint resolution in the System did not agree to investigation documents, and BLLC routinely lacked documentation that it referred complaints to other agencies (e.g., Baltimore City Police Department) as indicated in the records (**Finding 15**).
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## Objective 3 – Disciplinary Procedures

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### Board Hearings

BLLC had adopted alternatives to the formal Board hearing process to address licensee violations and infractions. These alternative processes were not approved by the Board, open to the public, or specifically addressed in State law (**Finding 17**). For example, BLLC allowed licensees to pay a fine in lieu of a Board hearing for certain violations that were a first offense (including sales to minors).

### Policies and Procedures

BLLC lacked written policies and procedures for the disciplinary process (**Finding 18**). For example, written guidance for deciding which violations should be adjudicated by the Board was not established. OLA's review of 408 documented violations from inspection reports noted 149 violations for which BLLC did not initiate disciplinary actions and therefore were not referred to the Board, even though the issues were the same as other violations that did result in a hearing (e.g., an expired license).

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## Objective 4 - Management Oversight

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### Management Practices

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

**(Finding 21).** For example, BLLC

- did not routinely generate reports from automated systems, and
- used a number of manual processes without developing the necessary monitoring tools or when tools were available they were not used. For example, the inspectors' Daily Summary Reports of inspection activity were not reviewed by supervisors or upper management.

### Financial Disclosure Forms

Board Commissioners and BLLC staff did not file annual financial disclosure forms as required by Baltimore City Code. For example, 16 of 29 employees tested for filing the CY 2010 form had not filed the document as of 12/2/11 **(Finding 22).**

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## Objective 4 - Management Oversight (cont.)

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### Employee Performance Evaluations

BLLC did not routinely perform formal evaluations of employee performance, as required (**Finding 23**).

Nineteen of 27 employees tested had no record of ever receiving a written performance appraisal.

Eleven of these employees had been with BLLC since at least 1999. According to State law, BLLC employees are part of the City's classified civil service and City policy requires annual evaluations.

### Payroll Processing

Internal controls over payroll, totaling \$1.8 million during FY 2012, were inadequate (**Finding 24**).

- Three management employees did not record their time worked.
  - Certain employees had inappropriate access to the automated system used to process payroll.
  - Employee sign-in and sign-out entries on documents used to support payroll entries did not correspond with our on-site observations.
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## Conclusions

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- BLLC needs to develop and implement written guidance, including formal Board policy and internal regulations/procedures/controls, to govern all facets of its operations.
- BLLC should work to develop and implement technologies to better allow it to perform its routine duties, manage operations, and measure performance.
- BLLC needs to ensure that adequate and appropriate documentation is established and retained of its staffs' actions and performance to support the results of BLLC's operations and compliance with State and City laws and Board policy.