

Audit Report

**Maryland Department of Labor
Division of Occupational and Professional Licensing**

March 2022



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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Victoria L. Gruber
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Gregory A. Hook, CPA
Legislative Auditor

March 11, 2022

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Maryland Department of Labor (MDL) – Division of Occupational and Professional Licensing (DOPL) for the period beginning January 30, 2017 and ending March 31, 2021. DOPL licenses, regulates, and monitors 25 business occupations and professions in concert with the applicable boards and commissions whose members are appointed by the Governor. Each of these boards and commissions is funded either by general funds or by license and exam fees from the specific professional or trade group regulated.

Our audit disclosed that DOPL did not take sufficient steps to ensure that occupational and professional licenses were issued only to applicants who met all education and experience requirements stipulated in State law. In addition, we found that collection procedures in place at three of four boards and commissions we examined were not sufficient to ensure that all collections were deposited, and collections were not always deposited promptly. Furthermore, certain employees with access to cash receipts could also modify license accounts.

Our audit also disclosed that DOPL did not reconcile cash control accounts for the Home Improvement and Real Estate Guaranty Funds to the State's accounting records and, consequently, DOPL was unable to ensure that all Fund activity had been properly accounted for and recorded.

Finally, our audit included a review to determine the status of the three findings contained in our preceding audit report. We determined that DOPL satisfactorily

addressed one of these findings. The remaining two findings are repeated in this report.

MDL's response to this audit, on behalf of DOPL, is included as an appendix to this report. We reviewed the response and noted agreement to our findings and related recommendations, and while there are other aspects of MDL's response which will require further clarification, we do not anticipate that these will require the Joint Audit and Evaluation Committee's attention to resolve. In accordance with our policy, we have edited certain vendor names or products mentioned in MDL's response.

We wish to acknowledge the cooperation extended to us during the audit by DOPL. We also wish to acknowledge MDL's and DOPL's willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "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
Licensing	
* Finding 1 – The Division of Occupational and Professional Licensing (DOPL) did not have sufficient procedures to ensure that individuals who were issued occupational and professional licenses had met all required qualifications.	5
Cash Receipts	
Finding 2 – DOPL’s collection procedures did not ensure that all collections were properly recorded and deposited.	7
Guaranty Funds	
* Finding 3 – DOPL did not reconcile its record of the Home Improvement and Real Estate Guaranty Funds to the State’s accounting records to ensure that all related cash transactions were properly accounted for and recorded.	8
Audit Scope, Objectives, and Methodology	10
Agency Response	Appendix

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

Background Information

Agency Responsibilities

The Division of Occupational and Professional Licensing (DOPL) of the Maryland Department of Labor (MDL)¹ licenses, regulates, and monitors 25 business occupations and professions in concert with the applicable boards and commissions whose members are appointed by the Governor. According to MDL records, as of June 30, 2020, DOPL regulated more than 262,000 licensees. Furthermore, according to the State's records, DOPL's expenditures for fiscal year 2020 totaled approximately \$9.5 million. These expenditures were funded by general funds, as well as licensing and exam fees.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the three findings contained in our preceding audit report dated November 28, 2017. As disclosed in Figure 1 below, we determined that DOPL satisfactorily addressed one of these findings. The remaining two findings are repeated in this report, although the Division did take limited corrective action with certain elements of those two prior findings.

Figure 1
Status of Preceding Findings

Preceding Finding	Finding Description	Implementation Status
Finding 1	DOPL did not have sufficient procedures to ensure that real estate broker and salesperson licenses, and home improvement contractor licenses were issued only to individuals who had met all required qualifications.	Repeated (Current Finding 1)
Finding 2	DOPL did not have adequate processes in place to ensure that certain collections were deposited.	Not repeated
Finding 3	DOPL had not established cash control accounts for the Home Improvement and the Real Estate Guaranty Funds, and did not reconcile cash transactions to the State's records.	Repeated (Current Finding 3)

¹ Chapter 91, Laws of Maryland 2019 renamed the Department of Labor, Licensing, and Regulation to be the Maryland Department of Labor

Findings and Recommendations

Licensing

Finding 1

The Division of Occupational and Professional Licensing (DOPL) did not have sufficient procedures to ensure that individuals who were issued occupational and professional licenses had met all required qualifications.

Analysis

DOPL did not have sufficient procedures to ensure that individuals issued occupational and professional licenses had met all required qualifications stipulated in the law. The Maryland Department of Labor (MDL), on behalf of DOPL, contracted with a vendor to administer examinations required for licensure. The vendor was responsible for ensuring that applicants met the educational and work experience requirements prior to administering the examinations. We reviewed the vendor's contracts associated with the following eight boards and commissions:

1. Maryland Real Estate Commission
2. Maryland Home Improvement Commission
3. Maryland Board of Plumbing
4. Maryland State Board of Electricians
5. Maryland Board of Stationary Engineers
6. Maryland Elevator Safety Review Board
7. Maryland Board of Heating, Ventilation, Air Conditioning and Refrigeration Contractors
8. Maryland Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors

Our review disclosed that DOPL did not have a Division-wide policy or process requiring each board or commission to ensure that the vendor was performing these pre-examination educational and work requirement verifications required by each of the contracts. For example, for seven of the eight licensure bodies listed above, neither DOPL nor the licensure body could provide documentation that independent reviews, as permitted by the contracts, had been conducted to ensure that the vendor adequately verified the experience qualifications of applicants (such as the 3,750 hours of training under the direction of a master plumber required for a master plumber license). DOPL advised us that for the Elevator Safety Review Board, Board of Stationary Engineers, and Board of Electricians certain application reviews are performed by a separate internal application committee. However, no documentation was available to support verification of

qualification requirements by either the vendor or a separate committee for these Boards.

A similar condition was commented upon in our preceding audit report regarding the Maryland Real Estate Commission (MREC) and Maryland Home Improvement Commission (MHIC). Our current review disclosed that MREC established a process to verify that individuals took the required real estate course before taking the licensing exams, but did not have a process to verify attainment of the required work experience. Similarly, MHIC did not have a process to verify work experience requirements for licensure.

State law requires applicants for occupational and professional licenses from certain boards and commissions to meet certain education and/or work experience requirements. For example, applicants for a broker's license must have at least three years of brokerage service experience (affiliated with a licensed real estate broker). According to DOPL records, there were 134,040 individuals in Maryland who held active licenses from the aforementioned eight boards and commissions as of June 30, 2020. These eight boards and commissions issued 15,662 new licenses during fiscal year 2020.

Recommendation 1

We recommend that, for all boards and commissions that use a licensing exam services vendor to screen applicants, as well as those that may use a separate internal application committee, DOPL establish procedures to ensure that applicants have met all required qualifications in accordance with State law. Specifically, we recommend that DOPL

- a. when using vendor services, inspect at least on a test basis the vendor's records to ensure that applicants met the education and experience requirements for licensure (repeat);**
- b. similarly, when using an internal application committee, ensure that education and experience requirements have been verified prior to approval for taking the applicable exam; and**
- c. maintain documentation of the results of these inspections and verifications for future reference (repeat).**

Cash Receipts

Background

DOPL receives cash receipts for licensing fees, guaranty fund fees, application fees, and fines which it collects on behalf of the 25 business occupations and professions that DOPL oversees. Collections are received through MDL's online

licensing system, a bank lockbox account, and mail-in/walk-in collections received at DOPL. During fiscal year 2020, online collections totaled approximately \$9.2 million, lockbox collections totaled approximately \$1.6 million, and mail-in/walk-in collections totaled approximately \$1.4 million. Our audit focused on mail-in/walk-in receipts since collections received online and through the bank lockbox are processed by MDL – Office of the Secretary and are included in the scope of that audit.

Finding 2

DOPL's collection procedures did not ensure that all collections were properly recorded and deposited.

Analysis

DOPL's collection procedures did not ensure that all collections were properly recorded and deposited. Checks received by DOPL were initially recorded at a central location. Copies of the checks, along with the related documentation, were then transferred to the applicable units (boards and commissions) to identify the proper revenue accounts. The documentation was then returned to the central location for use in recording the revenue in the licensing system and for subsequent deposit processing. Each unit was responsible for performing a validated deposit verification for its collections. According to its records, DOPL collected approximately \$1.4 million during fiscal year 2020 for its boards and commissions. Our review disclosed the following:

- Four employees who processed collections in the central location had access to modify license accounts, to record collections, and release licenses for issuance in DOPL's licensing management system, without subsequent review and approval of the modified transactions. As a result, these employees could alter the licensing accounts and misappropriate funds without detection. We were advised by DOPL management that these employees did not need this access for their routine jobs, but access was given to the employees due to staff on leave and personnel shortages.
- Our test of 28 collections totaling \$378,688 received by four boards and commissions disclosed there was no documentation that a deposit verification had been performed for 10 of the collections received by three of these units. These 10 collections totaled \$23,151, and were included in deposits totaling \$24,061.
- Deposits for 16 of the 28 collections tested totaling \$135,756 were not made until 4 to 13 business days after receipt of the funds.

The Comptroller of Maryland's *Accounting Procedures Manual* requires the establishment of sufficient internal controls over collections, including an adequate separation of cash receipt and accounts receivable processing duties, prompt deposit of cash receipts (ideally the day of receipt and preferably by the next business day, but at least weekly), and independent verification of collections to deposit, which should be performed from the record of checks received.

Recommendation 2

We recommend that DOPL

- a. ensure that employees involved in the cash receipts function do not have the capability to modify license accounts in the automated system,**
- b. ensure that all boards and commissions perform documented deposit verifications, and**
- c. deposit all collections in a prompt manner.**

Guaranty Funds

Finding 3

DOPL did not reconcile its record of the Home Improvement and Real Estate Guaranty Funds to the State's accounting records to ensure that all related cash transactions were properly accounted for and recorded.

Analysis

DOPL did not reconcile its Home Improvement and Real Estate Guaranty Funds cash control accounts to the corresponding amounts in the State's accounting records to ensure that all related cash transactions were properly accounted for and recorded. The two Guaranty Funds were established by State law to compensate individuals who are financially injured because of faulty work performed by a licensed home improvement contractor or because of the wrongful acts of a licensed real estate broker or salesperson. The Funds receive a portion of all licensing fees, and according to the State's records, as of June 30, 2020, the cash balances in the Home Improvement Guaranty Fund and the Real Estate Guaranty Fund totaled approximately \$3.7 million and \$1.1 million, respectively.

In response to our preceding audit report, DOPL established a cash control account for both the Home Improvement and Real Estate Guaranty Funds. Although DOPL compared its control account balances to the State's records, variances were not investigated and no corrective action was taken.

Subsequent to our inquiries, DOPL prepared and provided us with monthly reconciliations for both funds for fiscal year 2021, which indicated only minor

differences. However, since these reconciliations were provided subsequent to completion of our fieldwork, we did not verify their accuracy. The lack of periodic reconciliations for the Guaranty Funds was commented upon in our preceding audit report.

Recommendation 3

We recommend that DOPL

- a. periodically reconcile its records of Guaranty Fund balances with the respective balances recorded in the State's accounting records, investigate any significant variances, and take the necessary action to resolve such variances (repeat); and**
- b. ensure that the reconciliations and any subsequent action required are reviewed and approved by supervisory personnel.**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Maryland Department of Labor (MDL) – Division of Occupational and Professional Licensing (DOPL) for the period beginning January 30, 2017 and ending March 31, 2021. 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 DOPL'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, licensing, and guaranty funds. We also determined the status of the findings contained in our preceding audit report.

Our audit did not include certain support services provided by the MDL – Office of the Secretary. These support services (such as payroll, purchasing, data processing, maintenance of accounting records, and related fiscal functions including cash receipts processed through MDL's online licensing system and certain bank lockbox account transactions) are included within the scope of our audits of the Office of the Secretary.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of January 31, 2017 to March 31, 2021, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of DOPL's operations. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk, the timing or dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do

not normally use sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us 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 DOPL's automated licensing system for the purpose of testing cash receipts, licensing, and guaranty funds. 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 audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

DOPL's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations, including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to DOPL, were considered by us during the course of this audit.

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

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for

improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

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

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

APPENDIX



OFFICE OF THE SECRETARY
500 N. Calvert Street
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Baltimore, MD 21202

March 2, 2022

Mr. Gregory A. Hook, CPA
Legislative Auditor
Department of Legislative Services
Office of Legislative Audits
Maryland General Assembly
301 West Preston Street, Room 1202
Baltimore, Maryland 21201

Re: Maryland Department of Labor Audit Report

Dear Mr. Hook:

I would like to acknowledge receipt of your most recent Legislative Draft Audit Report of the Maryland Department of Labor for the Division of Occupational and Professional Licensing dated February 11, 2022. This Audit contained Fact Findings for which the Agency anticipates having procedures in place to resolve the Finding by their completion dates.

I want to thank Robert Wells (Audit Manager), Abdullah Adam (Senior Auditor), Dorian A. Fournier and Benjamin Straube (Staff Auditors) of your team for providing us with valuable advice and suggestions. Please express our gratitude to your audit team for their hard work during our audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. P. Robinson", is written over the word "Sincerely,".

Tiffany P. Robinson
Secretary
Maryland Department of Labor

**Maryland Department of Labor
Division of Occupational and Professional Licensing**

Agency Response Form

Licensing

Finding 1

The Division of Occupational and Professional Licensing (DOPL) did not have sufficient procedures to ensure that individuals who were issued occupational and professional licenses had met all required qualifications.

We recommend that, for all boards and commissions that use a licensing exam services vendor to screen applicants, as well as those that may use a separate internal application committee, DOPL establish procedures to ensure that applicants have met all required qualifications in accordance with State law. Specifically, we recommend that DOPL

- a. when using vendor services, inspect at least on a test basis the vendor's records to ensure that applicants met the education and experience requirements for licensure (repeat);**
- b. similarly, when using an internal application committee, ensure that education and experience requirements have been verified prior to approval for taking the applicable exam; and**
- c. maintain documentation of the results of these inspections and verifications for future reference (repeat).**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	Currently all boards are following different procedures to ensure that the Licensing Exam Service Vendors are following the guidelines for the candidates' licensing requirements. However, the goal is to make it a uniformed process for all the boards. This will be an intense process as each board works differently and may require more time than indicated below to implement.		
Recommendation 1a	Agree	Estimated Completion Date:	06/30/2022
Please provide details of corrective action or explain disagreement.	Each Board's Executive Director or the assigned staff would be required to review at least 5 applications per quarter randomly selected from the vendor noted or from other vendors (if applicable). The Board will then review the applications for the required education and experience for the applicant to qualify for exam. If additional information or clarification is required, the staff would complete the follow up steps. If there are frequent discrepancies in the applications sent by the vendor for any requirements, the number of applications reviews would increase.		

**Maryland Department of Labor
Division of Occupational and Professional Licensing**

Agency Response Form

Recommendation 1b	Agree	Estimated Completion Date:	06/30/2022
Please provide details of corrective action or explain disagreement.	The test audit review of the applicant's education and experience will be completed before it goes to the Board for approval.		
Recommendation 1c	Agree	Estimated Completion Date:	06/30/2022
Please provide details of corrective action or explain disagreement.	Each Board will maintain all related inspection and verification documents for future reference.		

**Maryland Department of Labor
Division of Occupational and Professional Licensing**

Agency Response Form

Cash Receipts

Finding 2
DOPL's collection procedures did not ensure that all collections were properly recorded and deposited.

We recommend that DOPL

- a. ensure that employees involved in the cash receipts function do not have the capability to modify license accounts in the automated system,**
- b. ensure that all boards and commissions perform documented deposit verifications, and**
- c. deposit all collections in a prompt manner.**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 2a	Agree	Estimated Completion Date:	11/1/2021
Please provide details of corrective action or explain disagreement.	Due to the pandemic, employees in the Customer Service Center were granted special accommodations which limited their time in the office. The 4 employees were granted access to complete the processing of over 25 licensing board applications. As of November 1, 2021, the 4 employees' access have been reversed to what it was before the pandemic. Please see attached new report. The name of the Report is "Cash Access Report Finding 2a".		
Recommendation 2b	Agree	Estimated Completion Date:	06/30/2022
Please provide details of corrective action or explain disagreement.	In the new procedure, which is being drafted, the bank report would be attached with the licensing applications and will be sent to the boards for the application approvals. Copy of the Draft of this procedure is attached under "Draft Revised Check Processing Guidelines". This procedure is currently being reviewed by the payment supervisor for further clarification.		
Recommendation 2c	Agree	Estimated Completion Date:	6/30/2022
Please provide details of corrective action or explain disagreement.	The procedure is being drafted where when the mail comes to be sorted, the payments would be separated from the applications, scanned in the bank the same day, and deposit released in the system when applications are approved by the boards. Copy of the Draft of this procedure is attached under "Draft Revised Check Processing Guidelines". This		

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Division of Occupational and Professional Licensing**

Agency Response Form

	procedure is currently being reviewed by the payment supervisor for further clarification.
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Guaranty Funds

Finding 3
DOPL did not reconcile its record of the Home Improvement and Real Estate Guaranty Funds to the State's accounting records to ensure that all related cash transactions were properly accounted for and recorded.

We recommend that DOPL

- a. periodically reconcile its records of Guaranty Fund balances with the respective balances recorded in the State's accounting records, investigate any significant variances, and take the necessary action to resolve such variances (repeat); and
- b. ensure that the reconciliations and any subsequent action required are reviewed and approved by supervisory personnel.

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 3a	Agree	Estimated Completion Date:	06/30/2021
Please provide details of corrective action or explain disagreement.	DOPL has implemented a periodic reconciliation plan for the Guarantee Funds. DOPL has identified the key components of the guarantee funds and the source of each transaction. The periodic reconciliation plan identifies a certain database management process and ties it to DOPL's Internal reports and the State's Financial Management Information System. The Components will be reviewed each month within 10 calendar days of receipt of the Guaranty Fund Balance Report from the Chief of Accounting, Office of Administration (OOA). When variances		

**Maryland Department of Labor
Division of Occupational and Professional Licensing**

Agency Response Form

	are noted during the review process, the Administrator 1 will report these to the Deputy Commissioner and submit adjusting journal entry requests to the Fiscal Supervisor, Office of the Administration and contact the MHIC and MREC staff to correct any errors noted in the database. By implementing this plan, the internal control over the Guaranty Funds will be maintained. Procedure is drafted and attached with the response under “Procedures for GF Reconciliation”.		
Recommendation 3b	Agree	Estimated Completion Date:	06/30/2021
Please provide details of corrective action or explain disagreement.	The Deputy Commissioner is reviewing the MHIC and MREC reconciliations for the Guaranty Fund Balance on a monthly basis. During the Monthly review, the Deputy Commissioner will ensure that the periodic reconciliations for Guaranty Funds are complete, and any variances are addressed.		

AUDIT TEAM

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