

**DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION**

Division of Pari-Mutuel Wagering
and Selected Administrative Activities



Sherrill F. Norman, CPA
Auditor General

Secretary of the Department of Business and Professional Regulation

The Department of Business and Professional Regulation is established by Section 20.165, Florida Statutes. The head of the Department is the Secretary who is appointed by the Governor and subject to confirmation by the Senate. During the period of our audit, the following individuals served as Department Secretary:

| | |
|-----------------|--|
| Jonathan Zachem | From June 28, 2017 |
| Matilda Miller | Interim, January 11, 2017, through June 28, 2017 |
| Ken Lawson | Through January 11, 2017 |

The team leader was Clint C. Boutwell, CPA, and the audit was supervised by Allen G. Weiner, CPA.

Please address inquiries regarding this report to David R. Vick, CPA, Audit Manager, by e-mail at davidvick@aud.state.fl.us or by telephone at (850) 412-2817.

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering and Selected Administrative Activities

SUMMARY

This operational audit of the Department of Business and Professional Regulation (Department) focused on the Division of Pari-Mutuel Wagering (Division) and selected administrative activities. The audit also included a follow-up on the findings noted in our report No. 2015-066. Our audit disclosed the following:

Pari-Mutuel Wagering

Finding 1: Division procedures for sampling and testing racing animals for drugs and medications could be enhanced to better align to industry best practices.

Finding 2: Pari-mutuel facility inspections were not always conducted using current facility inspection checklists.

Finding 3: The Division did not require all employees with inspection or enforcement related responsibilities be subject to Department conflict of interest policies and procedures. A similar finding related to Department inspection activities was noted in our report No. 2015-066.

Finding 4: The Division could gain greater assurance over the integrity of wagering operations, including the accuracy and completeness of totalisator¹ data used to calculate the applicable fees and taxes due from each pari-mutuel permitholder, by obtaining and reviewing independent service auditor reports on the effectiveness of internal controls established by Division-approved totalisator companies.

Selected Administrative Activities

Finding 5: The Department did not perform a complete physical inventory of all tangible personal property for the 2015-16 fiscal year as required by Department of Financial Services rules.

BACKGROUND

The Department of Business and Professional Regulation (Department) was created and organized consistent with State law² to license and regulate businesses and professionals operating in the State. State law provides for 12 Department divisions, including the Division of Administration and the Division of Pari-Mutuel Wagering (Division). To perform the Department's licensing and regulatory functions, the Legislature appropriated to the Department \$154.1 million for the 2016-17 fiscal year and funded 1,618.25 positions.³

¹ Section 550.002(36), Florida Statutes, defines totalisator as the computer system to accumulate wagers, record sales, calculate payoffs, and display wagering data on a display device that is located at a pari-mutuel facility.

² Section 20.165, Florida Statutes.

³ Chapter 2016-66, Laws of Florida.

FINDINGS AND RECOMMENDATIONS

PARI-MUTUEL WAGERING

Pursuant to State law,⁴ the Division is responsible for regulating the State's pari-mutuel⁵ industry (e.g., horse, harness horse, and greyhound racing), slot machine gaming, and cardroom activities, as well as overseeing the Gaming Compact between the Seminole Tribe of Florida and the State of Florida (Compact). The Division is organized into six offices and the State Compliance Agency, with each functional area responsible for regulating different aspects of the State's gaming industry. Specifically:

- The Office of the Director, among other things, is responsible for budget planning, rule promulgation, policy development, strategic planning, and the enforcement of administrative actions.
- The Office of Operations is responsible for ensuring races and games are conducted in accordance with State law and Department rules. This responsibility includes collecting urine and blood samples from racing animals, and issuing gaming occupational licenses.
- The Office of Auditing is responsible for conducting annual compliance audits at selected facilities to ensure that wagering activities are conducted in accordance with State law and Department rules.
- The Office of Investigations is responsible for routinely monitoring all pari-mutuel, cardroom, and slots facilities for compliance with applicable State laws and Department rules and for investigating all identified statutory and rule violations.
- The Office of Revenue and Financial Analysis is responsible for reconciling and accounting for all wagering activity and for recording and administering State revenues derived from gaming activities.
- The Office of Slot Operations is responsible for ensuring that slot activity is conducted in accordance with State law, Department rules, and the facilities' approved internal controls.
- The State Compliance Agency is responsible for carrying out the State's oversight responsibilities in accordance with the provisions outlined in the Compact.

As shown in Table 1, Division revenue from pari-mutuel and cardroom activities totaled over \$19 million for each of the 2014-15 and 2015-16 fiscal years.

⁴ Sections 285.710, 550.0251, 551.103, and 849.086(4), Florida Statutes.

⁵ Section 550.002(22), Florida Statutes, defines pari-mutuel as a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.

Table 1
Division Pari-Mutuel and Cardroom Activity Revenue
For the 2014-15 and 2015-16 Fiscal Years

| Source | 2014-15 | 2015-16 |
|---|----------------------------|----------------------------|
| Pari-Mutuel Wagering - Daily License Fees | \$ 2,248,112 | \$ 2,113,280 |
| Pari-Mutuel Wagering - Occupational Licenses | 525,060 | 493,647 |
| Pari-Mutuel Wagering - Penalties and Fines | 86,165 | 80,725 |
| Pari-Mutuel Wagering - Taxes | 8,546,445 | 7,718,848 |
| Cardroom - Occupational Licenses | 184,502 | 162,117 |
| Cardroom Table License Fees | 695,000 | 861,000 |
| Cardroom Taxes on Gross Receipts ^a | 6,794,895 | 7,364,827 |
| Miscellaneous Receipts ^b | 156,576 | 339,614 |
| Fingerprinting Fees ^c | 235,539 | 230,135 |
| Totals | <u>\$19,472,294</u> | <u>\$19,364,193</u> |

^a Pursuant to Section 849.086(13)(c), Florida Statutes, one-half of the cardroom admissions tax and gross receipts tax is credited to the Pari-Mutuel Wagering Trust Fund and one-half is credited to the State's General Revenue Fund. Table 1 includes only the amounts credited to the Pari-Mutuel Wagering Trust Fund.

^b Includes various fees and charges, including revenues from unclaimed winning tickets assigned for transfer to the Department of Education's State School Trust Fund.

^c Includes fingerprinting fees for all pari-mutuels and cardrooms.

Source: Department records.

The Division was a member of the Association of Racing Commissioners International (ARCI), a nonprofit trade association composed of governmental regulators of horse and greyhound racing in the United States and other countries. The former Division Director served on the ARCI Licensing and Technology Committee during the conduct of our audit field work.

Finding 1: Testing of Racing Animals

State law⁶ specifies that the Division is responsible for supervising and regulating the welfare of racing animals at pari-mutuel facilities and adopting reasonable rules for holding, conducting, and operating all races and race tracks in the State. Accordingly, the Division adopted rules⁷ governing the usage of, and the sampling and testing of racing animals for, drugs and medications.

To evaluate Division testing procedures for racing animals, we conducted inquiries of Division staff, made observations of sample collection and shipment procedures at five pari-mutuel facilities,⁸ and reviewed

⁶ Section 550.0251(3) and (11), Florida Statutes.

⁷ Department Rules, Chapter 61D-6 and Rule 61DER17-1, Florida Administrative Code. Subsequent to the completion of our audit fieldwork, Department Rule 61DER17-1, Florida Administrative Code, expired and the Division filed a Notice of Emergency Rule for Department Rule 61DER17-2, Florida Administrative Code, effective December 27, 2017.

⁸ Observations were conducted at St. Johns Greyhound Park, Mardi Gras Gaming, Gulfstream Park Racing, Tampa Bay Downs Inc., and Derby Lane during selected dates in April 2017.

associated Division records. We also compared Division procedures to best practices⁹ adopted by the Racing Medication and Testing Consortium (RMTTC).¹⁰ The ARCI maintained collaborative efforts with the RMTTC and the RMTTC included ARCI members as active participants. Our audit procedures disclosed several opportunities to improve Division procedures for sampling and testing racing animals for drugs and medications. Specifically:

- RMTTC best practices define a split-sample as a separate and distinct blood or urine sample, collected at the same time as the primary sample and retained for the sole purpose of analysis by an approved laboratory in case of a positive result on the primary sample. Although State law¹¹ requires the Division to implement split-sample procedures for testing animals, none of the facilities observed collected separate and distinct blood or urine samples. In response to our audit inquiry, Division management indicated that personnel were to collect a sample of sufficient quantity that allowed the laboratory¹² to retain a portion of the sample for further independent testing, if requested by the affected trainer or owner. However, collecting separate and distinct samples may better support disciplinary actions based on positive drug results. Division management indicated in response to our audit inquiry that the Department's new proposed rules would require the collection of separate and distinct samples for horses.
- RMTTC best practices advise that, when obtaining blood serum samples, the blood tubes be allowed to sit upright at room temperature for 30 to 45 minutes before being centrifuged.¹³ Additionally, instructions included with the blood tubes provided by the Division's laboratory specified that the blood sample was to be allowed to clot in a vertical position, and management of the Division's laboratory indicated that the tubes were to be allowed to sit upright for at least 30 minutes before being centrifuged. We examined the PMW 504 forms¹⁴ for the races observed at two horse racing facilities¹⁵ to determine whether blood samples rested for at least 30 minutes before being centrifuged. Our examination disclosed that the blood samples for 5 of the 37 horses tested were centrifuged prior to the minimum recommended rest time of 30 minutes. Specifically, the 5 samples rested for 20 to 29 minutes (an average of 24 minutes) before being centrifuged.

In response to our audit inquiry, Division management indicated that detention barn procedures provide guidance to staff, who also receive on-the-job training and are responsible for monitoring rest times. However, our audit procedures found that detention barn procedures were not always followed. Not allowing blood samples to sit upright for the minimum rest period prior to centrifuging may compromise the samples' integrity.

- RMTTC best practices emphasize the need to document the chain of custody for handling and storing samples from the time of collection to final disposition, and provide that records documenting any and every individual involved in the collection, processing, and shipping of each specific sample be maintained to provide justifiable evidence if needed at an administrative hearing. The Division utilized PMW 504 forms and pre-numbered Sample Identification tags to record each step of the sample process and the individuals responsible for each step. The PMW 504 form included columns for recording the time each blood sample was collected,

⁹ Racing Medication and Testing Consortium *Test Barn Chain of Custody and Procedures: Considerations and Recommendations*.

¹⁰ The RMTTC is a consortium that represents 23 racing industry stakeholder groups and its mission is to develop and promote uniform rules and policies and testing standards to ensure the integrity of racing and the health and welfare of racehorses and participants.

¹¹ Section 550.2415(5), Florida Statutes.

¹² The Department has contracted with the University of Florida for the period July 1, 2014, through June 30, 2019, for the University's Racing Laboratory to test samples collected from racing animals for impermissible drugs or medications.

¹³ Centrifugal force is used to separate blood cells from plasma cells.

¹⁴ *Daily Record of Sample Collection for Racing Horses*.

¹⁵ Gulfstream Park Racing and Tampa Bay Downs Inc.

centrifuged, and decanted.¹⁶ Our review of the PMW 504 forms documenting the sampling process we observed at the horse testing barn at each of the two horse racing facilities indicated that, for 6 of the 37 horse blood samples, Division personnel recorded decant times earlier than the centrifuge times, contrary to best practices for demonstrating chain of custody and what we observed. In these instances, the PMW 504 forms were signed off by both the Detention Barn Supervisor and the State Veterinarian.

In response to our audit inquiry, Division management indicated that each facility's Detention Barn Supervisor and State Veterinarian were responsible for reviewing the completed PMW 504 forms in accordance with established procedures. However, the procedures did not include instructions or other guidance for reviewing or approving completed PMW 504 forms. Accurately recording sample information on official chain of custody documents promotes accountability for and the integrity of each sample. Additionally, comprehensive supervisory review and approval of completed chain of custody documents could reduce errors in the completed documents and provide management greater chain of custody assurance.

- RMTTC best practices advise that the process of decanting blood serum in a test barn is not recommended because the practice establishes vulnerability in the chain of custody process. The Division's practice was to utilize the sampling materials provided by their laboratory, which included glass tubes for collecting blood serum, and decant the blood serum to plastic tubes to be frozen. At both horse racing facilities, we observed the decanting of blood serum from glass collection tubes to plastic tubes in the test barns, contrary to best practices. In response to our audit inquiry, Division management indicated that the proposed new rules would eliminate the decanting process.

Recommendation: We recommend that Division management enhance racing animal testing procedures to ensure that:

- **Separate and distinct split samples are collected and retained.**
- **Blood samples are stored upright for at least 30 minutes at room temperature before being centrifuged.**
- **Sample information is accurately recorded on Division chain of custody documentation and chain of custody records are subject to comprehensive supervisory review and approval.**
- **Blood serum samples are not decanted in test barns.**

Finding 2: Pari-Mutuel Facility Inspections

The Division, Office of Investigations (Office), was responsible for performing inspections of pari-mutuel facilities to determine whether the facilities operated in accordance with applicable State laws and Department rules. Office investigators conducted periodic inspections of pari-mutuel facilities and utilized standard checklists to document the inspection results. Division supervisors were to review selected checklists. Deficiencies noted during an inspection could result in either a verbal or written notification to the permitholder, or the opening of a formal investigation, depending on the severity and nature of the deficiency.

To evaluate the effectiveness of Office inspection procedures, we examined 15 pari-mutuel facility inspection checklists (checklists) completed during the period July 2015 through February 2017. Our

¹⁶ Decanting is the process of pouring out one liquid (plasma cells) without disturbing the sediment (blood cells) or lower liquid levels.

examination disclosed that, in one instance, the Office investigator used an outdated checklist to conduct the inspection. Specifically, the investigator completed the 2008 version of the checklist instead of the current 2013 version. Our comparison of the checklists disclosed that, while the Office's current checklist included 33 specific inspection criteria linked to applicable Department rules, the 2008 checklist included only a summary format and did not include specific references to applicable Department rules.

We expanded our examination to include all 34 checklists completed by the same Office investigator during the period July 2015 through February 2017. Our examination disclosed that the investigator utilized the outdated checklist to complete 16 of the 34 inspections and none of the 34 checklists evidenced supervisory review. In response to our audit inquiry, Division management indicated that the volume of inspections performed necessitated supervisors perform random reviews of completed checklists and that the use of correct checklists had been discussed and reinforced with staff.

Absent the use of correct checklists, Division management has reduced assurance that facility inspections will be conducted in accordance with management's expectations and applicable Department rules.

Recommendation: We recommend that Division management take steps to ensure that the results of pari-mutuel facility inspections are documented using correct checklists.

Finding 3: Conflicts of Interest

The Legislature has declared that it is essential to the proper conduct and operation of government that public officials be independent and impartial and that no officer or employee of a State agency have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of their duties in the public interest.¹⁷ State law¹⁸ further specifies that no public officer or employee is to have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, the agency of which he or she is an officer or employee.

Department policies and procedures¹⁹ required all employees with inspection or enforcement related responsibilities to immediately report any potential conflicts of interest and annually submit a *Conflict of Interest for Inspection or Enforcement Related Assignments* form (conflict of interest form) disclosing any potential conflicts of interest or certifying that none existed. To evaluate Division controls for ensuring that employees with inspection or enforcement related responsibilities did not have potential conflicts of interest with the entities they were responsible for regulating, we performed inquiries of Human Resource and Division management and reviewed relevant documentation for 10 Office of Investigations and 16 Office of Operations employees and supervisors. Our audit procedures disclosed that the 10 Office of Investigations employees and supervisors, who had inspection or enforcement related duties such as performing inspections at race tracks and cardrooms, and the 16 Office of Operations employees and supervisors, who were responsible for processing blood and urine samples and ensuring that races were

¹⁷ Section 112.311, Florida Statutes.

¹⁸ Section 112.313(7)(a), Florida Statutes.

¹⁹ Department Policy No. 1.14, *Conflict of Interest/Employment Outside State Government*, effective July 20, 2016.

conducted in accordance with State law and Department rules, had not completed conflict of interest forms in accordance with Department policies and procedures.

During our observations at one horse racing facility, we noted that the Chief Veterinarian Assistant responsible for centrifuging and decanting blood samples, completing test barn sample collection records, and packing and shipping blood and urine samples for testing, was the spouse of a jockey who raced in one of the day's performances and whose second-place horse's samples were processed and recorded by the Chief Veterinarian Assistant. Although this situation created a potential conflict of interest for the Chief Veterinarian Assistant, Division management asserted that employees in this position, or other Office of Operations positions, were not considered to have inspection or enforcement responsibilities and, as a result, were not subject to Department conflict of interest policies and procedures.

Notwithstanding management's assertion, subjecting all employees who have inspection or enforcement related responsibilities, including those in the Office of Operations, to Department conflict of interest policies and procedures would provide Division management greater assurance that Department regulatory activities are conducted in an independent and impartial manner. A similar finding related to Department inspection activities was noted in our report No. 2015-066 (finding No. 1).

Recommendation: We recommend that Division management take steps to ensure that all employees with inspection or enforcement related responsibilities, including those in the Office of Operations, are subject to Department conflict of interest policies and procedures and annually complete conflict of interest forms.

Finding 4: Totalisator Company Internal Controls

Pari-mutuel permitholders are required to pay to the Division daily license fees and taxes based on the total amounts wagered on races and games conducted by the permitholder. Department rules²⁰ specify that all pari-mutuel permitholders are required to use an electronically operated totalisator²¹ that complies with applicable Department rule requirements,²² including system control and security requirements. Totalisator licensees are responsible for ensuring their systems record, classify, and accumulate wagering data; automatically determine winning priorities; perform calculations; and provide reports, as necessary, and for the accuracy of the reported odds and final payout prices.²³ Pursuant to State law,²⁴ the Division issued licenses to three totalisator companies during the period July 2015 through February 2017.

Daily, each pari-mutuel permitholder's totalisator sends racing and wagering data to the Division, which uses the Central Management System to calculate the applicable fees and taxes due from each pari-mutuel permitholder based on the totalisator data. To gain assurances regarding the accuracy and completeness of the data, each month the Division reconciled the calculated fees and taxes to the

²⁰ Department Rule 61D-7.024, Florida Administrative Code.

²¹ Section 550.002(36), Florida Statutes, defines totalisator as the computer system to accumulate wagers, record sales, calculate payoffs, and display wagering data on a display device that is located at a pari-mutuel facility.

²² Department Rules 61D-7.021, 61D-7.023, and 61D-7.024, Florida Administrative Code.

²³ Department Rule 61D-7.024(4) and (10), Florida Administrative Code.

²⁴ Section 550.495, Florida Statutes.

corresponding revenue report provided by each pari-mutuel permitholder. The Division also reconciled the schedules of pari-mutuel wagering amounts included in permitholder audited financial statements to Division records, audited cashed and uncashed pari-mutuel tickets, and established a contract with a vendor to monitor wagering data for statutory compliance and to account for daily wagering activity, tax liabilities, and tax payments. Additionally, State law²⁵ requires totalisator companies to file a performance bond or proof of insurance in the amount of \$250,000 insuring the State for any revenue losses attributable to the totalisator company.

Although these procedures provide some assurance that the totalisator companies established effective internal controls, including information technology controls, for wagering operations, to ensure the accuracy and completeness of the totalisator data, an independent review of the adequacy of a pari-mutuel wagering system's internal controls would provide additional assurance. The ARCI standards²⁶ require totalisator companies to maintain a documented system of internal controls and provide that a service auditor's report²⁷ may be required. However, our audit found that, during the period July 2015 through February 2017, the Division did not obtain from either the totalisator companies or pari-mutuel permitholders, applicable service auditor's reports related to the totalisator companies' system of internal controls.

In response to our audit inquiry, Division management indicated that permitholders are the end-users of the information provided by the totalisator company; therefore, the service auditor's report requirement would be applicable to the permitholder. Notwithstanding Division management's response, an independent review of the totalisator companies' internal controls would provide greater assurance regarding the integrity of wagering operations, including the accuracy and completeness of totalisator data used to calculate the applicable fees and taxes due from each pari-mutuel permitholder.

Recommendation: Because of the critical nature of totalisator data, we recommend that Division management obtain and review service auditor reports on the effectiveness of the totalisator companies' internal controls.

SELECTED ADMINISTRATIVE ACTIVITIES

As part of our audit, we also evaluated selected Department administrative activities and controls, including those related to Department tangible personal property.

²⁵ Section 550.495(2)(c), Florida Statutes.

²⁶ The ARCI *Pari-Mutuel Wagering Totalisator Requirements and Operating Environment Standards*, Version 1.01.

²⁷ A service auditor's report, as described by the American Institute of Certified Public Accountants, *Statement on Standards for Attestation Engagements No. 18, Attestation Standards: Clarification and Recodification, Reporting on an Examination of Controls at a Service Organization Relevant to User Entities' Internal Control Over Financial Reporting*, provides information and auditor conclusions related to a service organization's controls. Service organizations make service auditor's reports available to user organizations to provide assurances related to the effectiveness of the service organization's relevant internal controls.

Finding 5: Annual Physical Inventory

Department of Financial Services (DFS) rules²⁸ require State agencies to record all tangible personal property²⁹ with a value or cost of \$1,000 or more and a projected useful life of 1 year or more in the Florida Accounting Information Resource Subsystem Property Subsystem. To promote the proper accountability for and safeguarding of property, DFS rules³⁰ require the Department to complete a physical inventory of all tangible personal property at least once each fiscal year. Upon completion of the physical inventory, the information from the inventory is to be reconciled to the individual property records and noted differences are to be investigated and corrected, as appropriate. As shown in Table 2, as of January 2017, the Department was responsible for 1,654 property items with acquisition costs totaling \$13,411,906.

Table 2
Tangible Personal Property by Class Type
As of January 2017

| Class Type | Number of Items | Acquisition Costs |
|--------------------------|---------------------|----------------------------|
| Vehicles | 638 | \$ 9,332,169 |
| Information Technology | 573 | 1,634,012 |
| Communications Equipment | 251 | 1,002,239 |
| Other | 192 | 1,443,486 |
| Totals | <u>1,654</u> | <u>\$13,411,906</u> |

Source: Department property records.

In March 2016, Department management became aware of mold and other environmental problems in the Northwood Centre where the Department's headquarters was located. Subsequently, proviso language in the 2016-17 General Appropriations Act³¹ and Department management directives provided for the immediate relocation of the Department's headquarters and all its staff, property, and operations from the Northwood Centre by June 30, 2016.

As part of our audit, we examined documentation related to the Department's 2015-16 fiscal year physical inventory and made inquiries of Department management and noted that the Department did not conduct a complete physical inventory for the 2015-16 fiscal year. In response to our audit inquiry, Department management indicated that a complete physical inventory was not feasible because of the relocation of the Department's headquarters. Instead, the Department conducted a modified physical inventory that only included information technology property items and did not capture for the items all the information required by DFS rules, such as the items' complete physical location. Additionally, the Department did not reconcile the results of the modified physical inventory to Department property records.

²⁸ DFS Rule 69I-72.002, Florida Administrative Code.

²⁹ Property is defined in applicable laws and rules as State-owned equipment, fixtures, and other tangible personal property of a nonconsumable or nonexpendable nature, the value or cost of which is \$1,000 or more and the projected useful life of which is 1 year or more.

³⁰ DFS Rules 69I-72.003 and 69I-72.006(1), Florida Administrative Code.

³¹ Chapter 2016-66, Laws of Florida.

While we recognize the conduct of a complete physical inventory may have presented challenges during the relocation of the Department's headquarters, such an inventory would have provided Department management greater assurance that all property was safeguarded and accounted for during the relocation. In response to our audit inquiry, Department management indicated that the emergency relocation was performed during the normal physical inventory time frame and that a complete physical inventory was conducted for the 2016-17 fiscal year in June 2017.

Recommendation: We recommend that Department management ensure that complete annual physical inventories of Department property are conducted in accordance with DFS rules.

PRIOR AUDIT FOLLOW-UP

Except as noted in the preceding paragraphs, the Department had taken corrective actions for the findings included in our report No. 2015-066.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from January 2017 through August 2017 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.

This operational audit of the Department of Business and Professional Regulation (Department) focused on the Division of Pari-Mutuel Wagering (Division) and selected administrative activities. The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all deficiencies noted in our report No. 2015-066.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable

governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit we:

- Reviewed applicable laws, rules, Department policies and procedures, and other guidelines, interviewed Department personnel, and performed observations of selected Department activities to obtain an understanding of Division investigation and inspection processes.
- Obtained an understanding of selected Department information technology (IT) controls, assessed the risks related to those controls, evaluated whether selected general and application IT controls for the OnBase Document Management System were in place, and tested the effectiveness of the controls.
- Compared four cardroom and three animal racing inspection checklists utilized by Division personnel during the period July 2015 through February 2017 to applicable laws and Department rules to determine whether the checklists incorporated all laws and rules related to cardroom and pari-mutuel activities.
- Performed inquiries of Division management and reviewed Division records to determine whether the Division had established an effective methodology for assigning inspections and investigations to staff and tracking the results of inspections and investigations.
- Performed inquiries of Division management, made observations of inspections conducted at five pari-mutuel facilities during selected dates in April 2017, and examined Division records to determine whether the Division had established effective controls for conducting and documenting the results of inspections of horse racing, greyhound racing, and cardroom activities at pari-mutuel facilities.
- From the population of 2,444 Division inspections performed during the period July 2015 through February 2017, examined Division records for 4 barn, 5 cardroom, 6 kennel, and 15 pari-mutuel

facility inspections to determine whether Division inspections were conducted timely and in accordance with applicable laws, Department rules, and Division policies and procedures, documented appropriately, reviewed by supervisory personnel, and deficiencies were appropriately followed up on. Additionally, we examined the other 33 facility inspection checklists completed by one inspector during the period July 2015 through February 2017 to determine whether the inspector utilized the appropriate checklist.

- Performed inquiries of Division management and personnel, made observations at five selected pari-mutuel facility race tracks and cardrooms, including observations of the testing of racing animals and cardroom inspections, and reviewed documents related to the testing of racing animals and cardroom activities to determine whether the Division had established sufficient procedures to ensure the validity and reliability of racing animal test results and that cardroom gaming and monitoring were conducted in accordance with State law, Department rules, and other guidelines.
- Performed inquiries of Division management and reviewed Division records to determine whether the Division had established effective controls for establishing, conducting, and documenting investigations of horse racing, greyhound racing, and cardroom activities at pari-mutuel facilities.
- From the population of 1,038 investigations active during the period July 2015 through February 2017, examined Division records for 26 selected investigations to determine whether Division investigations were conducted timely and in accordance with applicable laws, Department rules, and Division policies and procedures, documented appropriately, reviewed by supervisory personnel, and deficiencies were appropriately followed up on.
- Reviewed Division records and researched totalisator companies' business organization and affiliates, performed inquiries of Division management, reviewed documentation related to Division audits of cardrooms and pari-mutuel facilities, observed the conduct of Division reconciliation procedures, and reviewed documentation related to the Division's reconciliation of monthly revenue reports to applicable totalisator data to determine whether Division procedures for ensuring totalisator data was complete and accurate were sufficient and appropriate.
- From the population of 173 Division personnel responsible for performing inspections and investigations or testing racing animals during the period July 2015 through February 2017, examined personnel records for 26 selected Division employees to determine whether the Division had established effective controls to ensure personnel assigned to conduct inspections and investigations or test racing animals possessed the necessary knowledge, skills, experience, independence, and training to ensure inspections, investigations, and tests of racing animal testing were conducted in accordance with applicable laws, rules, and Division policies and procedures.
- Evaluated Department actions to correct the findings noted in our report No. 2015-066. Specifically, we:
 - Examined Department conflict of interest policies and procedures and Department records for 8 of the 659 employees from the Divisions of Alcoholic Beverages and Tobacco, Drugs, Devices, and Cosmetics, Hotels and Restaurants, and Regulation, with inspection or enforcement-related responsibilities during the period October 2015 through February 2017, to determine whether the employees timely submitted conflict of interest forms and management timely reviewed the forms in accordance with Department policies and procedures.
 - Examined Division of Alcoholic Beverages and Tobacco and Division of Drugs, Devices, and Cosmetics inspection policies, procedures, and schedules to determine whether the Divisions had established effective policies and procedures for scheduling inspections and specifying the criteria for initiating, and the time frames for conducting, inspection follow-up activities.

- Performed inquiries of Division of Alcoholic Beverages and Tobacco management, reviewed Division inspection procedures, checklists and supporting documentation, and examined Division records for 4 of the 74,706 inspections completed during the period July 2015 through February 2017 to determine whether Division inspections were performed in accordance with established policies and procedures and inspection forms were properly completed.
- Performed inquiries of management, reviewed applicable policies, procedures, and training materials related to follow-up inspections conducted by the Divisions of Alcoholic Beverages and Tobacco; Drugs, Devices, and Cosmetics; Hotels and Restaurants; and Regulation, and examined Division records for 8 of the 50,835 inspections conducted by the Divisions of Alcoholic Beverages and Tobacco; Drugs, Devices, and Cosmetics; Hotels and Restaurants; and Regulation (Cosmetology only) during the period January 2016 through February 2017 that included violations requiring follow-up procedures, to determine whether the follow-up inspections were conducted timely, appropriately, and the prior deficiencies had been corrected.
- Reviewed applicable laws, rules, and other State guidelines to obtain an understanding of the legal framework governing Department operations.
- Observed, documented, and evaluated the effectiveness of selected Department processes and procedures for:
 - Revenue and cash receipt activities.
 - The administration of tangible personal property in accordance with State law and applicable guidelines. As of January 2017, the Department was responsible for tangible personal property with related acquisition costs totaling \$13,411,906.
 - The assignment and use of motor vehicles. As of January 2017, the Department was responsible for 638 motor vehicles with related acquisition costs totaling \$9,332,169.
 - The administration of Department contracts in accordance with State law and applicable guidelines. During the period July 2015 through January 2017, the Department was responsible for 35 active contracts totaling \$56,846,165.
 - The administration of purchasing cards in accordance with applicable guidelines. As of February 2017, the Department had 539 active purchasing cards.
 - The administration of Department travel in accordance with State law and other applicable guidelines. During the period July 2015 through December 2016, Department travel expenditures totaled \$2,443,243.
 - The assignment and use of wireless devices with related costs totaling \$118,434 during the period July 2015 through December 2016.
 - The administration of the requirements of the Florida Single Audit Act. During the period July 2015 through June 2016, the Department expended \$3,616,783 for three State Financial Assistance programs.
 - The acquisition and management of real property leases in accordance with State law, Department of Management Services rules, and other applicable guidelines. As of February 2017, the Department was responsible for 28 active real property leases.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.

- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



Office of the Secretary
Jonathan Zachem, Secretary
2601 Blair Stone Road
Tallahassee, Florida 32399-1000
Phone: 850.413-0755 • Fax: 850.921.4094

Jonathan Zachem, Secretary

Rick Scott, Governor

January 11, 2018

Sherrill F. Norman
Auditor General
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Auditor General Norman:

In accordance with Section 11.45(4)(d), Florida Statutes, I have enclosed our response to the preliminary and tentative audit findings and recommendations included in your operational audit of the *Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering and Selected Administrative Activities*.

We appreciate the time, energy, and dedication put forth by your staff, as well as your continuing efforts to improve the operations of state government.

If you have any questions, please contact Lynne T. Winston, Inspector General, at (850) 414-6700.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Zachem", is written over a blue circular stamp. The signature is fluid and cursive.

for Jonathan Zachem

cc: Reginald Dixon, Chief of Staff
Andrew Fier, Deputy Secretary of Business Regulation
Lynne T. Winston, Inspector General
Ruth Dillard, Director, Division of Administration and Financial Management
Robert Ehrhardt, Director, Division of Pari-Mutuel Wagering

Enclosure

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Response to Preliminary and Tentative Audit Findings and Recommendations

*Operational Audit of Department of Business and Professional Regulation
Division of Pari-Mutuel Wagering and Selected Administrative Activities*

Pari-Mutuel Wagering

Finding No. 1: Testing of Race Animals

Division procedures for sampling and testing racing animals for drugs and medications could be enhanced to better align to industry best practices.

Recommendation

We recommend that Division management enhance racing animal testing procedures to ensure that:

- Separate and distinct split samples are collected and retained.
- Blood samples are stored upright for at least 30 minutes at room temperature before being centrifuged.
- Sample information is accurately recorded on Division chain of custody documentation and chain of custody records are subject to comprehensive supervisory review and approval.
- Blood serum samples are not decanted in test barns.

Agency Response

On May 23, 2017, the Division held a rule workshop relating to the specimen collection procedures outlined in Sections 61D-6.005 and 61D-6.006, Florida Administrative Code. The proposed rules include the changes recommended by the Auditor General. The rules require separate and distinct split samples to be collected and retained. They also require that blood samples be stored upright for at least 30 minutes at room temperature before being centrifuged and that blood serum samples not be decanted in test barns. The final versions of the amended rules were adopted on December 4, 2017.

In addition, to ensure specific sample information is accurately recorded for chain of custody the Division has amended PMW 504 forms. On November 18 and 19, 2017, the Division's contracted testing laboratory conducted training with the Division field staff regarding updated chain of custody procedures. The Division will continue to emphasize to supervisors that PMW 504 forms are subject to comprehensive supervisory review and approval.

Finding No. 2: Pari-Mutuel Facility Inspections

Pari-mutuel facility inspections were not always conducted using current facility inspection checklists.

Recommendation

We recommend that Division management take steps to ensure that the results of pari-mutuel facility inspections are documented using correct checklists.

Agency Response

The Division has counseled the investigator that utilized an outdated cardroom checklist, and outdated versions of the form within his possession were physically and electronically destroyed.

In September 2017, the Office of Investigations implemented a procedure that requires investigative supervisors to review all completed checklists to ensure that current cardroom checklists are utilized, replacing the previous process whereby checklists were sampled and reviewed.

Finding No. 3: Conflicts of Interest

The Division did not require all employees with inspection or enforcement related responsibilities be subject to Department conflict of interest policies and procedures. A similar finding related to Department inspection activities was noted in our report No. 2015-066.

Recommendation

We recommend that Division management take steps to ensure that all employees with inspection or enforcement related responsibilities, including those in the Office of Operations, are subject to Department conflict of interest policies and procedures and annually complete conflict of interest forms.

Agency Response

The Division will require all employees with inspection or enforcement related responsibilities, including those in the Office of Operations, to annually complete a conflict of interest form.

Finding No. 4: Totalisator Company Internal Controls

The Division could gain greater assurance over the integrity of wagering operations, including the accuracy and completeness of totalisator data used to calculate the applicable fees and taxes due from each pari-mutuel permitholder, by obtaining and reviewing independent service auditor reports on the effectiveness of internal controls established by Division-approved totalisator companies.

Recommendation

Because of the critical nature of totalisator data, we recommend that Division management obtain and review service auditor reports on the effectiveness of the totalisator companies' internal controls.

Agency Response

In accordance with the Section 61D-7.023(10), Florida Administrative Code, the Division will make an annual request to totalisator companies operating in Florida for any service auditor reports presented or conducted for a Florida pari-mutuel permitholder.

Selected Administrative Activities

Finding No. 5: Conflicts of Interest

The Department did not perform a complete physical inventory of all tangible personal property for the 2015-16 fiscal year as required by the Department of Financial Services rules.

Recommendation

We recommend that Department management ensure that complete annual physical inventories of Department property are conducted in accordance with DFS rules.

Agency Response

The Department concurs with the Auditor General's recommendation and will complete annual physical inventories of Department property in accordance with DFS rules. The Department completed the annual physical inventory for Fiscal Year 2016 – 17 in June 2017; the annual physical inventory for Fiscal Year 2017 – 18 is scheduled to be completed by June 2018.